

ADDENDUM 1

Volume 9

W200300618-CA-15 PD

FILED

JUN 03 2003

DEPUTY CLERK

AM

CLERK

PM

1 IN THE CIRCUIT COURT
2 MADISON COUNTY, TENNESSEE
3 AT JACKSON, DIVISION I

4

5 JON HALL,

6 Petitioner,

7 VS.

No. C 00 - 422

8 STATE OF TENNESSEE,

9 Defendant.

10

11 HEARING ON POST-CONVICTION

12 RELIEF PETITION

13 MAY 15, 2002

14 VOLUME I OF IV

15

16

17

18

19

20

AMY MAYS

21

OFFICIAL COURT REPORTER

22

MADISON COUNTY JUSTICE COMPLEX

23

JACKSON, TENNESSEE 38301

24

(731) 423-6039

FILED

JUL 24 2003

Clerk of the Courts
Rec'd By [Signature]1
Vol. 9 ORIGINAL

1

APPEARANCES

2 Before the Honorable:

3 JUDGE ROY B. MORGAN, JR.

4 For the Petitioner:

5 MR. PAUL N. BUCHANAN

6 Attorney at Law

7 1526 Crockett Hills Boulevard

8 Brentwood, Tennessee 37027

9 - and -

10 MR. DANNY ELLIS

11 Hardee & Martin

12 213 East Lafayette

13 Jackson, Tennessee 38301

14 For the State:

15 MR. AL EARLS

16 Assistant District Attorney General

17 Lowell Thomas State Office Building

18 P. O. Box 2825

19 Jackson, Tennessee 38302

20 * * * * *

21

22

23

24

1

TABLE OF CONTENTS

2 DEBBIE DAVIS

3 Direct Examination Page 36

4 Cross-Examination Page 95

5 Redirect Examination Page 105

6 CLARENCE STANFILL

7 Direct Examination Page 109

8 JOE HENRY STANFILL

9 Direct Examination Page 114

10 VALENE FOREMAN

11 Direct Examination Page 119

12 PAULA FOREMAN

13 Direct Examination Page 124

14 EXHIBIT 1 Page 33

15 EXHIBIT 2 Page 57

16 EXHIBIT 3 Page 60

17 EXHIBIT 4 Page 124

18 * * * * *

19

20

21

22

23

24

1 THE COURT: We're ready for Mr.
2 Hall's matter. Just preliminarily a
3 couple of comments I want to make and see
4 if I've thought out something in the past
5 accurately.

6 This is Docket Number C00-422,
7 matter of Jon Hall vs. State of Tennessee.
8 It's a post-conviction matter.

9 I want to back up to last week and
10 see where I stand on something because
11 maybe I was confused. I want to find out
12 today. I understand from counsel for Mr.
13 Hall, Mr. Buchanan, as a result of last
14 Friday's phone call initiated by Mr. Ellis
15 that there's certain expert testimony
16 that's not ready yet because there's not
17 been an examination conducted. Is that
18 right?

19 MR. BUCHANAN: Yes, sir.

20 THE COURT: And the reason was
21 because of delay in getting orders back
22 from AOC. That's why an examination was
23 not done.

24 MR. BUCHANAN: That's part of the

1 reason, yes, sir.

2 THE COURT: And as a result of that
3 and the phone call last week, you were
4 calling me to let me know that but also
5 the very afternoon, Friday afternoon, last
6 Friday, you were going to contact the AOC
7 to get a copy of the order which you
8 needed to get the doctor to proceed on
9 with the examination. Correct?

10 MR. BUCHANAN: Yes, sir.

11 THE COURT: And that was Dr. --

12 MR. BUCHANAN: Pam Auble.

13 THE COURT: Now, I followed up
14 because I wanted to know. I could not
15 recall during the phone conversation,
16 because I didn't know it was going to
17 occur ahead of time, when orders were
18 signed, but the way I understand it, Pam
19 Auble's order, which also included Dr.
20 Caruso, was signed by me on March the 13th
21 of this year.

22 MR. BUCHANAN: Yes, sir.

23 THE COURT: And for Pam Auble it
24 was a sum less than \$5,000. Correct?

1 MR. BUCHANAN: Yes, sir.

2 THE COURT: Now, further proof was
3 not necessary for her to get paid in that
4 case. Right?

5 MR. BUCHANAN: That's not true
6 anymore, Your Honor. That used to be the
7 case, but now they all have to go to the
8 Supreme Court, they all have to go to the
9 Chief Justice of the Supreme Court,
10 according to Holly Kirkum.

11 THE COURT: I didn't realize that.
12 I thought that amount was automatic once I
13 signed it because of the sum of money
14 involved.

15 MR. BUCHANAN: Used to be.

16 THE COURT: But Ms. Kirkum has told
17 you different.

18 MR. BUCHANAN: Yes, sir.

19 THE COURT: So you had to wait then
20 on an order by the Supreme Court.

21 MR. BUCHANAN: Yes, sir.

22 THE COURT: Now, the order you were
23 going to get Friday I thought was an order
24 that was just being signed if it was

1 ready. But is it true that the order you
2 were getting Friday is an order that I
3 actually had previously approved in March
4 but was approved by the Supreme Court and
5 you got a copy faxed, to co-counsel at
6 least, on April the 18th?

7 MR. BUCHANAN: There was a copy
8 faxed to Mr. Ellis on the 18th.

9 THE COURT: Why didn't you just use
10 that to follow up and get things started?

11 MR. BUCHANAN: I did not know we
12 had that. Mr. Ellis says that he had
13 turned around and faxed it to Dr. Auble.
14 Dr. Auble claims she doesn't have it,
15 didn't have it. And I've run all this
16 down since Friday. She has it now. She
17 has it as of yesterday.

18 THE COURT: Mr. Ellis, update me on
19 that.

20 MR. ELLIS: Your Honor, I did not
21 fax it to Dr. Auble. I immediately put it
22 in the mail to Mr. Buchanan. I don't know
23 if it got lost in the mail, but ...

24 THE COURT: You didn't get it back.

1 MR. ELLIS: I didn't get it back.

2 THE COURT: But you immediately --
3 When you say "immediately", you mailed it
4 that very day?

5 MR. ELLIS: That day or the very
6 next day, Your Honor. And I don't have a
7 copy of it. I didn't keep a copy. I
8 should have.

9 THE COURT: I understand.

10 Mr. Buchanan, what do you say? He
11 says he mailed it to you.

12 MR. BUCHANAN: Your Honor, I don't
13 have it, but -- you know, if he did, I
14 didn't get it, but if I had gotten it,
15 say, about the 23rd of April, she would
16 have gotten it about the 26th or '7th, and
17 she would still be, as far as assigning
18 him a place in her docket book, about the
19 same time she is now.

20 THE COURT: My concern was, you
21 didn't have that order. You were telling
22 me you called AOC, and I found out later
23 the order was, in fact, signed April the
24 18th. It was faxed to you. And this is

1 where I want to clear up that confusion.
2 I like to know where I stand with people
3 and when they tell me something, that it
4 be accurate and truthful.

5 MR. BUCHANAN: I think it was
6 signed April 14th, Judge, as a matter of
7 fact.

8 THE COURT: And you're telling me
9 now that Ms. Kirkum told you that no
10 longer was it automatically approved if
11 the sum was \$5,000, that you had to still
12 get a Supreme Court order.

13 MR. BUCHANAN: Yes, sir.

14 THE COURT: When did she tell you
15 that?

16 MR. BUCHANAN: January.

17 THE COURT: Of this year?

18 MR. BUCHANAN: Yes, sir.

19 THE COURT: In person or by phone
20 call?

21 MR. BUCHANAN: By phone.

22 THE COURT: And when the March 13th
23 order was signed by me, she didn't call
24 you and tell you anything different about

1 it being automatically approved as to Dr.
2 Auble?

3 MR. BUCHANAN: No, sir. Has it
4 changed?

5 THE COURT: I'm just asking you
6 what she told you or didn't tell you based
7 on what you've told me.

8 MR. BUCHANAN: It used to be that
9 up to 5,000 you didn't have to get it
10 approved. I've had that direct experience
11 with Ms. Higuera on another case.

12 THE COURT: And so the only one
13 we're waiting on now is Dr. Auble.

14 MR. BUCHANAN: We're waiting on Dr.
15 Auble, and I had an affidavit from Dr.
16 Caruso. We need a serotonin test. I'm a
17 little hesitant to talk about this in
18 front of Mr. Earls, but I suppose it's not
19 really going to hurt anything.

20 THE COURT: Well I thought you said
21 Friday that you had no problem with it.
22 He wasn't in the phone conversation
23 Friday, it was ex parte, and you had no
24 problem talking to him.

1 MR. BUCHANAN: Right.

2 THE COURT: So I'm just relying on
3 what you told me.

4 MR. BUCHANAN: No, I understand,
5 Judge. I just want to make the record to
6 make sure that I understand what I'm doing
7 here.

8 THE COURT: If you need Mr. Earls
9 to step out, if we need to do this in
10 chambers, now is the time to change your
11 mind from last Friday's conversations.

12 MR. BUCHANAN: No. No, that's
13 okay. I don't have any problem with
14 telling him that we -- because I know that
15 I have Dr. Caruso to come and testify at
16 least just to the mitigation part of the
17 trial, the punishment phase. He has to
18 complete -- Pam Auble has to complete her
19 work, and a Dr. Solomon, who I found, has
20 to complete his work on the serotonin
21 levels before he can testify as to the
22 intermittent explosive disorder. That's
23 where we're at.

24 THE COURT: What's the status of

1 Dr. Auble as far as appointments,
2 scheduling?

3 MR. BUCHANAN: July 31st.

4 THE COURT: She couldn't do any
5 better than that scheduling?

6 MR. BUCHANAN: Judge, I begged. I
7 sent e-mails saying, please, if there's
8 any way. The one thing she did tell me is
9 that if there was a cancellation in her
10 schedule, that she might be able to shove
11 it up before that. She could only
12 guarantee July 31st. She said it takes
13 about two weeks to do all of her work, and
14 she also said that she was now turning
15 down work; she wasn't scheduling anything
16 anymore.

17 THE COURT: So based on the July
18 31st date, you're saying that although we
19 might proceed for three days here, that
20 the final hearing would have to occur
21 sometime after the middle of August.

22 MR. BUCHANAN: Yes, sir.

23 THE COURT: And the main reason is
24 going to be the scenario with the experts.

1 MR. BUCHANAN: Yes, sir.

2 THE COURT: But now you have made
3 yourself available for Friday, I
4 understand, of this week.

5 MR. BUCHANAN: Yes, sir.

6 THE COURT: One other thing. When
7 I schedule something -- I don't know how
8 other judges do it. I just always assume
9 they do it the same. When I schedule
10 something for May 15, my experience has
11 been there's no guarantee something's
12 going to finish on one day. You
13 understand that.

14 MR. BUCHANAN: Yes, sir.

15 THE COURT: And you're well aware
16 that this case -- since you're the one
17 that's representing the Petitioner, would
18 not finish this case in one day or maybe
19 two days or maybe even three days.

20 MR. BUCHANAN: Well, I think I told
21 the Court a week would probably be the
22 neighborhood of what it would take.

23 THE COURT: So you've taken care of
24 the air ticket that you had for Friday.

1 MR. BUCHANAN: Oh, yes, sir. That
2 never was a big problem. I threw it out
3 to the Court to let you know because Mr.
4 Ellis and I both were under the impression
5 that -- Well, actually when I left here I
6 thought it was one day but it became two
7 quickly, but I have never had any problem
8 with the Court telling me, "My Friday is
9 free. Let's go three." I mean, that's --
10 every time I schedule a ticket for an
11 airline -- This is not the first time this
12 has happened, Judge, and it never upsets
13 me. We've got to move -- We've got to
14 move the docket along. I understand that.

15 THE COURT: Mr. Ellis, thanks for
16 clearing up that you mailed that order to
17 Mr. Buchanan instead of faxing it to Dr.
18 Auble. I appreciate that.

19 MR. ELLIS: Well, Your Honor, I
20 think through the whole course that's what
21 we said. I think even on the phone
22 conversation Friday, that's what I said.

23 THE COURT: Well I don't question
24 what you said. I just wanted to clear it

1 up because it was in conflict with what he
2 was saying. That's why I appreciate you
3 speaking up to clear it up today.

4 MR. ELLIS: Well, again, I think
5 Mr. Buchanan just -- he's known that all
6 along and he's said that all along. This
7 is just --

8 THE COURT: Said it different
9 today.

10 MR. ELLIS: Exactly, and I don't
11 think it was intentional at all. I think
12 it's just a matter of -- I mean, we've got
13 -- we've been staying -- we stayed up 'til
14 midnight last night getting ready for this
15 thing. Basically it was inadvertent.

16 MR. BUCHANAN: Well, Judge, Friday
17 I knew I didn't have it. I mean, I think,
18 you know, it's clear I had not seen it and
19 was not under the impression it was even
20 finished. The lag time had been about six
21 weeks. This one came back in just about
22 four.

23 THE COURT: I guess, too, the phone
24 call Friday to me between you and Mr.

1 ready to proceed with the petition itself.
2 I have reviewed the file. We're not
3 dealing with a jury here. I feel like
4 we're ready to proceed with the proof.

5 MR. ELLIS: Your Honor, before we
6 begin, I'm going to make an objection on
7 the record.

8 Your Honor, throughout the course
9 of this proceeding, Mr. Hall is objecting
10 to the Court having venue, that this Court
11 -- that these proceedings going back from
12 the trial setting to now taking place in
13 Madison County.

14 If you'll look at Criminal Rule of
15 Procedure, Criminal Procedure Number 21, I
16 believe the rule states that there are two
17 ways to have a change of venue; one is by
18 petition of the -- upon the motion of the
19 Defendant, or, two, by the Court's own sua
20 sponte motion with the Defendant's
21 consent.

22 Having perused the file, Your
23 Honor, I do see that there is a motion to
24 change venue from counsel that was filed,

1 which I think the proof will show, against
2 the Defendant's wishes. He did not wish
3 to have his case moved from where it took
4 place to Madison County.

5 Second, Your Honor, if you'll look
6 at Section F of the rule, "If a change of
7 venue is ordered, the clerk shall make out
8 a full and complete transcript of the
9 record and the proceedings in this cause
10 and transmit the same, together with the
11 indictment and all other papers on file,
12 to the clerk of the receiving court, which
13 transcript shall be entered on the minutes
14 of the receiving court."

15 Your Honor, I -- this is an
16 extensive and vast record. From what I'm
17 going through, I do not see a transcript
18 of the change of venue motion. So that
19 section has not been complied with, and as
20 I am almost -- well, no, I am positive
21 that if that were the case and if there
22 was a hearing held, Mr. Hall would be
23 standing up screaming, "I don't want to
24 move it." And, Your Honor, we're going to

1 argue that this Court doesn't have
2 jurisdiction, that the trial court that
3 conducted the trial didn't have
4 jurisdiction, and as you know -- excuse
5 me, venue. Venue and jurisdiction go hand
6 in hand. They are both synonymous with
7 power. If a court does not have power to
8 act, then a court cannot rule and its
9 rulings are void, and, therefore, we ask
10 that this verdict be set aside and a new
11 trial be scheduled.

12 THE COURT: General?

13 MR. EARLS: I think the record
14 shows the Defendant filed a motion for
15 change of venue and it was granted. I
16 think the Court has jurisdiction. As far
17 as the district, based upon his own
18 motion, it just moved counties, selected a
19 jury in Madison County rather than
20 Henderson County. I'd ask that that
21 objection be overruled.

22 THE COURT: That would have been a
23 matter addressed on appeal, would it not,
24 during the regular course of appeal?

1 MR. EARLS: Yes, sir, it should
2 have been.

3 MR. ELLIS: Your Honor, I think he
4 has preserved that issue for appeal all
5 the way through.

6 THE PETITIONER: Your Honor, I
7 would like a chance to talk.

8 THE COURT: Well now, I can't keep
9 going around including the Petitioner as
10 well as counsel. So counsel -- You can
11 talk to your lawyer if you need to talk to
12 your lawyer, but you've got two lawyers
13 there, and we'll go through them in these
14 proceedings. If you want to take a minute
15 and talk to Mr. Ellis you can.

16 THE PETITIONER: According to
17 Article I, Section 9, I have a right to be
18 heard.

19 THE COURT: If you want to talk to
20 Mr. Ellis you can.

21 THE PETITIONER: I remember I
22 objected to having counsel appointed on
23 March 23rd, 2001, and you appointed
24 counsel for me anyhow. So I consider them

1 elbow counsel, so I think I have a right
2 to be heard.

3 THE COURT: Mr. Hall, if you want
4 to talk to Mr. Ellis or Mr. Buchanan, you
5 can. Otherwise, I'm going to move on.

6 THE PETITIONER: Are you going to
7 violate my civil rights to be heard?

8 THE COURT: Mr. Hall, I'll let you
9 talk to your attorneys if you want to talk
10 to them.

11 THE PETITIONER: Are you a de facto
12 judge? Is your oath of office current?

13 THE COURT: Mr. Hall, I ask you to
14 be quiet at this time.

15 Gentlemen, under the circumstances,
16 the venue question --

17 THE PETITIONER: I ask that you
18 recuse yourself.

19 THE COURT: Have him removed from
20 the courtroom. I'm not going to start it
21 out this way. This is not a jury trial.
22 If we have to conduct it without Mr. Hall
23 --

24 THE PETITIONER: You don't even

1 have jurisdiction over me, and I got a lot
2 more proof --

3 THE COURT: Have him removed.

4 THE PETITIONER: -- pursuant to
5 Tennessee Rules of Evidence 201 and 202,
6 you got notice of the law and the facts.

7 THE COURT: I'm disappointed so
8 early in the proceedings that we're having
9 such difficulty, but this is not a jury
10 trial, and we all have a job to do, and I
11 cannot tolerate nor will we make any
12 progress if the Petitioner in this case is
13 going to continue to act in such a nature.
14 So, at this time, gentlemen, we're going
15 to proceed on.

16 As to the venue question, there is
17 a difference in venue and jurisdiction,
18 but I agree with counsel, that either one
19 can cause some problems as to whether or
20 not the Court can handle the case.

21 For purposes of this proceeding
22 today, I'm going to deny the request that
23 Mr. Ellis has made on behalf of the
24 Petitioner, and we're going to proceed on.

1 The venue issue is something I assume was
2 addressed at another point in time by
3 other courts, but it's not proper for
4 purposes of this proceeding in that I find
5 I do have venue to handle -- and
6 jurisdiction to handle the post-
7 conviction.

8 Go ahead, Mr. Buchanan.

9 MR. BUCHANAN: Judge, just to try
10 to clear up a couple of preliminary
11 matters, is there any piping of any oral
12 -- of what goes on here to where the
13 Defendant is now?

14 THE COURT: I don't have anything.
15 If you want to talk to your client very
16 briefly and if he will calm down, you know
17 he's welcome to come back in this
18 courtroom. That's up to you.

19 MR. ELLIS: I'd ask the Court for a
20 five-minute recess.

21 THE COURT: Five minutes, okay.

22 MR. BUCHANAN: Well, if you'll let
23 Mr. Ellis go do that, I'd like to address
24 just a couple of things so we can move

1 along here.

2 THE COURT: Certainly.

3 MR. BUCHANAN: Judge, I want the
4 Court to know this so -- I really feel bad
5 about a couple of things, and I want the
6 Court to know this. I swear on a stack of
7 Bibles that when I left here, I thought we
8 had a one- or two-day hearing, and I
9 thought -- and I really thought, and Mr.
10 Ellis did, too, that we had a -- that we
11 had two days scheduled for us for sure,
12 and I think Mr. Ellis made that clear to
13 you on Friday, that he thought it was just
14 two days. The reason that I did not
15 contact the Court as opposed to -- I want
16 you to understand how I'm trying to work
17 with this Court. You had told me, "If you
18 have any problems, Mr. Buchanan, get with
19 me ahead of time." I have two days of
20 testimony, and I saw no reason to not take
21 full advantage of it and move along what
22 we could, and by the time you question the
23 lawyers and put on some of these other
24 witnesses, I didn't see how that wouldn't,

1 and I was ready for them, even in spite of
2 the fact that the psychiatrist is not
3 through with his work, and that's why I
4 didn't contact the Court. I wasn't trying
5 to spring any last minute thing. I just
6 assumed we had two days set aside and that
7 we would be adjourning to some extent and
8 re-evaluating when things would be
9 finished. That's the only reason I didn't
10 contact the Court. I didn't see any need
11 for a continuance. I thought, if the
12 Court needs two days of testimony, we're
13 going to give it to him, and that's -- and
14 when you moved it to three, we redoubled
15 our efforts and got together everything
16 that we think we can to make it three.
17 So, I just want the Court to know, I know
18 you want to move this case.

19 THE COURT: I think I have a duty
20 to move it.

21 MR. BUCHANAN: Absolutely.

22 THE COURT: I know I have a duty to
23 move it.

24 MR. BUCHANAN: Absolutely you do.

1 THE COURT: We've talked about this
2 enough I think. We've made clear where we
3 all stand and we're ready to proceed. I
4 don't need three days of stuff you don't
5 need to put on. If I take three days,
6 it's because we can utilize what you're
7 putting on to make a fair decision on
8 post-conviction. So, do what you can do
9 with three days, just know we're available
10 for three days obviously, and I know now
11 that we're looking at sometime after July
12 31st as far as experts.

13 MR. BUCHANAN: And I'm sorry I
14 didn't tell the Court that, but I left
15 here with the impression that the Court
16 knew it would be about a week probably for
17 total, but you had set aside two days and
18 we would get started at that point.

19 THE COURT: I start a lot of cases
20 and then go on for some time beyond the
21 day it was set for. That's just the way
22 it works. That's been the way I've had it
23 for 20-something years, practicing law and
24 on the bench. It's just that way.

1 MR. BUCHANAN: Okay.

2 THE COURT: And it's always up to
3 checking with the Court to determine
4 whether we're going to stop prematurely
5 from a final result. So, enough said on
6 it. We need to move on to the merits of
7 the petition itself.

8 MR. BUCHANAN: Yes, sir.

9 MR. ELLIS: Very briefly, Your
10 Honor. Mr. Hall would like to come back
11 into the courtroom. He has asked that he
12 can show me something from his file
13 records to argue in addition on his motion
14 against the venue. Your Honor, I believe
15 if he is allowed to do that, I think I
16 have his agreement that he will conduct
17 himself accordingly during the hearing.
18 So we're going to ask that Mr. Hall be
19 allowed to be brought back in, and if I
20 could just briefly revisit what he wants
21 to be argued.

22 THE COURT: On venue?

23 MR. ELLIS: On venue, Your Honor.
24 I know you've already ruled, but I would

1 ask that you reconsider just ...

2 THE COURT: Let him step in.

3 MR. ELLIS: Thank you, Your Honor.

4 THE COURT: And I want to give him
5 one comment as he comes back in.

6 Mr. Hall, if your disruptive
7 behavior continues, then you waive your
8 right to be present in this courtroom.

9 THE PETITIONER: My rights have
10 been violated.

11 THE COURT: Let me finish. I just
12 want to make that very clear. Disruptive
13 behavior continuing will waive your right
14 to be present in this courtroom. You can
15 return as you have now if you're willing
16 to cooperate and behave in a proper manner
17 in the courtroom. Now Mr. Ellis has been
18 kind enough on your behalf to talk with
19 you, and that's why you're back in here.

20 Enough said, and, Mr. Ellis, you
21 may continue.

22 MR. ELLIS: I just want to pass --
23 if you'll look in the trial book, there is
24 an affidavit in support -- filed on

1 November 1st, 2001 to support the argument
2 that this Court has lost jurisdiction
3 because it has failed to afford the
4 Defendant due process rights. Mr. Hall
5 would like us to argue that under Article
6 1, Section 9 in the Tennessee
7 Constitution, it grants that in all
8 criminal prosecutions, that the defendant
9 has a right to be heard by himself and his
10 counsel to demand the nature and
11 accusations against him, to have a copy of
12 it -- therefore, to meet the witnesses
13 face to face, to have a compulsory process
14 for obtaining witnesses in his favor, to
15 have an impartial jury trial in the county
16 in which the trial has been committed, and
17 that he had asked his counsel not to file
18 a motion to change venue, that he wanted
19 to have his case heard in the county in
20 which this crime was alleged to have been
21 committed; that these attorneys through
22 their actions violated his wishes,
23 therefore, violating the constitution;
24 that as agents of the State, through being

1 appointed through the Public Defender's
2 office and as counsel, that they were
3 acting on behalf of the State and that
4 under Article I, Section 9, his due
5 process rights were violated.

6 Your Honor, he has got several
7 cases that he would like me to present to
8 the Court. I will not forward you copies
9 of them; I will just give you the cites.
10 Your Honor, I have not had a chance to
11 check these to see if these are updated
12 law, and I have not had a chance to
13 Shepardize them.

14 First one is 101 US 494, Baker v.
15 Humphrey. The next one, Your Honor, is
16 Weakly ex rel. Usery v. Pierce. That's 52
17 Tenn 401. Tennessee ex rel. Anglin v.
18 Mitchell, 575 S.W.2d 284, Tennessee v.
19 Eaves, 959 S.W.2d 601, State of Tennessee
20 v. Upchurch, 620 S.W.2d 540, Tennessee v.
21 Ellis, 953 S.W.2d 216, Tennessee v. Muse,
22 967 S.W.2d 764, Hull v. Cunningham, 133 US
23 107, Kentucky v. Stinsor, 107 S. Ct.
24 2685(a), Jones v. Zerbst, 304 US 458, and

1 he also cites his own case, State v. Jon
2 Hall, 8 S.W.3d 593.

3 Your Honor, I'd also point you to
4 Mr. Hall's appendix that was filed on
5 November 1st, 2001, to Page 37 for his
6 argument.

7 THE COURT: I reviewed that
8 appendix just this week.

9 General, comment further?

10 MR. EARLS: I think the Court's
11 already properly ruled, Your Honor.

12 THE COURT: I'll stand on my ruling
13 for the reasons previously stated, but I
14 appreciate counsel's argument.

15 Now are we ready to proceed?

16 MR. BUCHANAN: Just a couple of
17 matters, preliminary matters.

18 I'd like the witnesses placed under
19 the rule.

20 THE COURT: The rule is going to be
21 called for. That means all witnesses to
22 this proceeding will have to remain
23 outside. You'll be called as you're
24 needed to testify, and you're instructed

1 not to discuss your testimony with those
2 going and coming from the courtroom.
3 That's the purpose of the rule. So all
4 witnesses must be excused at this time and
5 remain outside.

6 MR. BUCHANAN: Another preliminary
7 thing, I think Mr. Earls and I have agreed
8 that a copy of the transcript as typed for
9 the purposes of appeal should be placed in
10 the record at this time. I believe he's
11 taken care of that.

12 Have you not, Mr. Earls?

13 MR. EARLS: Yes, sir.

14 MR. BUCHANAN: And I certainly
15 concur with him, no objection to it, and
16 would ask that it be placed into the
17 record at this time.

18 THE COURT: That's the trial
19 transcript?

20 MR. BUCHANAN: Yes, sir.

21 THE COURT: If y'all agree, that
22 can be marked Exhibit 1. By agreement
23 then the trial transcript will be passed
24 up, and give the court reporter time to

1 mark it Exhibit 1.

2 (Exhibit 1 was marked

3 and entered.)

4 THE COURT: Go ahead.

5 MR. BUCHANAN: Your Honor, if I
6 might, these are a little bit more
7 informal than obviously when a jury is
8 here. May I inquire of the Court exactly
9 where the Court is in its study of this
10 record? And the only reason I ask that is
11 because, if the Court's read the
12 transcript, that would change some of the
13 way I conduct this proceeding. If the
14 Court hasn't read the transcript, then it
15 would change a few things.

16 THE COURT: If you want to make
17 reference to the transcript, at any time
18 you make reference to it. You've got to
19 do your job. I am somewhat familiar with
20 the case. I assume I'll be a lot more
21 familiar by the time you conclude, but you
22 proceed how you feel like you need to
23 proceed in representing Mr. Hall.

24 MR. BUCHANAN: Would the Court mind

1 telling me, has the Court read this
2 transcript?

3 THE COURT: I have looked at
4 portions of the transcript. I have looked
5 at a lot of things in their entirety but
6 portions of the transcript. Now, whether
7 I've looked at something you --

8 MR. BUCHANAN: Yes, sir.

9 THE COURT: -- and would recall it,
10 you still might need to refresh my
11 recollection. You do what you feel like
12 you need to do. I'm obviously going to
13 have additional time after this week to
14 look at other things, sometime between now
15 and July 31st I take it.

16 MR. BUCHANAN: Your Honor, may I
17 make a brief opening statement then?

18 THE COURT: I don't see the purpose
19 in that unless you feel like there's --
20 Tell me why an opening statement would be
21 necessary at this point. I've reviewed --
22 Do you feel like you need to because of
23 the transcript question?

24 MR. BUCHANAN: No, sir. I thought

1 I would like to tell you where we're
2 headed, but if the Court feels we don't
3 need to make one, then that's fine with
4 me, too.

5 THE COURT: I've reviewed your
6 pleadings which I feel like give me a
7 pretty good idea of where you're headed.
8 Let's go ahead and proceed unless there's
9 something else preliminarily.

10 MR. BUCHANAN: All right. Then
11 I'll --

12 MR. ELLIS: Your Honor, I don't
13 mean to interrupt, but I would like to
14 know if we could unshackle Mr. Hall's
15 hands so that he can write and communicate
16 with us.

17 THE COURT: That's up to security.

18 COURT OFFICER: No, sir, that is
19 against policy and procedure.

20 THE COURT: Go ahead.

21 MR. BUCHANAN: Then I'd call Debbie
22 Davis to the stand, Your Honor.

23 DEBBIE DAVIS was called and being
24 first duly sworn, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. BUCHANAN:

4 Q Would you state your name for the
5 record, please?

6 A My name is Debbie Davis.

7 Q And, Ms. Davis, where do you live?

8 A I live in Farmington, Connecticut.

9 Q And what is your relationship to
10 Jon Hall?

11 A I'm his sister.

12 Q And are you the same Debbie Davis
13 that testified previously in this case in
14 the trial, in the punishment phase of that
15 trial, in Volume IV, Pages 415 to 426?

16 A Yes, I am.

17 Q Approximately some 11 pages.

18 A I -- Yes, I guess.

19 Q Ms. Davis, were you called at the
20 guilt or innocence phase of that trial?

21 A No, I was not.

22 Q And I wanted to ask you. You're
23 one of how many brothers and sisters and
24 siblings of Jon Hall?

1 A I'm one of seven children, and I'm
2 the next to the oldest, Jon being the
3 youngest.

4 Q And were you raised with him?

5 A Yes. Yes and no. We had such a
6 large family that my grandparents lived
7 right beside my parents. So, it was
8 connected by a sidewalk. So we were
9 together and would eat meals sometimes,
10 but I slept at my grandparents' house. I
11 stayed at my grandparents' house.

12 Q Ms. Davis, were you ever -- in the
13 time between July of 1994 and February of
14 1997, were you ever contacted by any
15 counsel representing Jon Hall? Save and
16 except the night before you were put on at
17 the punishment phase --

18 A No, I was not.

19 Q -- by telephone.

20 A No, I was not.

21 Q Did you have information that would
22 have gone to the punishment phase as well
23 as the guilt or innocence phase concerning
24 Jon?

1 A I certainly would have thought so,
2 yes.

3 Q Do you know of any reason why you
4 could not have been contacted and had this
5 information extracted from you during that
6 time?

7 A No.

8 Q Now, where did you live back in
9 1994 through 1997?

10 A In Connecticut.

11 Q Had Jon lived with you?

12 A He lived with me in North Carolina.

13 I lived in North Carolina. I taught
14 school for 13 years and owned a restaurant
15 in Fayetteville, North Carolina. I think
16 that was from 1976 to 1990.

17 Q 1990 what?

18 A 1976 to 1990 I lived in
19 Fayetteville, North Carolina.

20 Q In what periods of time did Jon
21 talk to you -- I mean, live with you?

22 A I'm not exactly sure of the years.
23 He came down I know -- I guess it was -- I
24 have to think about this. We left about

1 the same time. I left a little after him
2 to go to -- So, I'd say it went '84
3 through '87 or somewhere in that time
4 frame.

5 Q Were you there when Jon met Billie?

6 A Yes, I was.

7 Q And Jon met Billie where?

8 A Jon was staying with me, but he
9 started dating this girl named Hope at an
10 apartment complex, and Billie was this
11 girl's next door neighbor, and I thought
12 he was dating Hope, but, in fact, he
13 somehow got hooked up with Billie, and
14 somehow they got together, and that's
15 where he met her, I believe over at that
16 apartment complex.

17 Q And this was about when?

18 A Are you asking me for dates?

19 Q Just roughly.

20 A In that same time period. I'll be
21 honest. I'm not really sure. I -- '84,
22 '85, somewhere in there, '86. I think
23 it's in that time frame.

24 Q Have you had occasion to see Jon

1 and Billie interact [sic] with each
2 other?

3 A Sure, lots of times.

4 Q Have you ever seen Billie be
5 abusive to Jon or use physical force and
6 violence against him?

7 A Yes, I have.

8 Q And how many occasions?

9 A Just -- Their relationship was kind
10 of funny. I can tell you one instance
11 where they were in the driveway. Jon was
12 working on our van. Billie came over to
13 the house. The kids were already with Jon
14 at my house, and Jon was working on the
15 van. Billie came over. She was upset
16 about -- I don't know whether he had the
17 wrong car or what was going on. But
18 anyway, I saw her get out of the car. I
19 was in the house. And she was angry about
20 something. I've seen her -- then she
21 started like kicking at him at his groin
22 area, and then he just kind of like pushed
23 her away and was turning around and then
24 she would go after him, hitting --

1 MR. EARLS: I'm going to object to
2 this evidence. I don't see what this has
3 to do with anything in a post-conviction
4 petition.

5 MR. BUCHANAN: Your Honor, it has
6 to do with adequate investigation. That's
7 why I'd asked for an opening statement.
8 Adequate investigation, determining issues
9 that were available to them at the time of
10 trial. In a murder case, the relations
11 between the parties are all relevant. In
12 this particular trial, this case was left
13 with the State producing the testimony
14 that there was phone lines disconnected
15 and that this woman was beaten severely to
16 death. There appeared, by the testimony
17 of Dr. Zager, that these attorneys were
18 trying to shoot for the lesser included
19 offense of voluntary manslaughter. There
20 are several problems with that, and I
21 think Mr. Woodall even said it in the
22 record, he alluded to it, he said, you
23 know, "You can put it in there, Judge. I
24 don't know if there's any evidence of it."

1 They did put Dr. Zager on that attempted,
2 it looked like, to see where they were
3 going. My point in bringing her up is to
4 show that had they interviewed her, which
5 my position would be a minimum of people
6 that you would interview would be the
7 immediate family members, they would have
8 found that, in fact, instead of painting
9 the picture that Billie was the poor
10 innocent person, that, in fact, there was
11 evidence that she was violent toward Jon
12 as he was to her.

13 THE COURT: I did some advance
14 thinking about this as I reviewed your
15 pleadings, and I agree with you to some
16 extent because this is the situation where
17 the State would normally be right, if
18 they're trying to exclude testimony being
19 offered to controvert facts or events
20 which brought about the original
21 conviction, but you're trying to offer
22 this testimony I find to show that there
23 was available to the attorneys, that you
24 are accusing of being ineffective, that

1 could have been brought forward for
2 purposes of a defense. And I say
3 "defense", something lesser possibly than
4 what he was convicted of. So I'm going to
5 let you proceed at this point based on
6 that logic.

7 And, General, you understand the
8 basis of my ruling.

9 MR. EARLS: Yes, sir.

10 THE COURT: Go ahead, Mr. Buchanan.

11 A So whenever he was putting her in a
12 headlock, I came out of the house and
13 said, "What are you guys doing," and then
14 they just pretended they were horsing
15 around. So, it was like they didn't
16 exactly want you to know that they were
17 fighting or arguing. That was just the
18 nature of their relationship. They did
19 that kind of stuff all the time. And on
20 occasions I would see her kick -- go try
21 to kick him in the groin or -- They just
22 were like that.

23 Q Have you ever witnessed her -- I'm
24 going to use a southern term -- pick at

1 him, that is, try to run him down and
2 belittle him and things of that nature?

3 MR. EARLS: Object to leading, Your
4 Honor.

5 THE COURT: Objection sustained.

6 Q Would you state whether or not
7 you've seen occasions such as that?

8 A Billie and Jon's relationship was a
9 little bit different. Billie -- Jon
10 always felt that Billie was much smarter
11 than himself, so Billie was always in
12 charge of everything. Billie was in
13 charge of all the bills. Everything was
14 always in Billie's name. Jon handed
15 Billie his paycheck. She did everything.
16 If they were working and he was getting
17 too many hours that would affect his
18 Social Security or whatever, anything like
19 that, Jon wouldn't go to work, but Billie
20 was in charge. Billie wanted -- She was
21 very proud of her education. She was very
22 proud of going to school to be an EMT.
23 Those were the things -- And that was her
24 goal, and that's the goal she was going

1 after, but Jon was the one that stayed and
2 took care of the kids. Jon is the one
3 that -- at least in North Carolina. I
4 don't know about in Tennessee.

5 Q Okay.

6 A But, yes, she did put Jon down.
7 She would tell him he was stupid, yes.

8 Q Did the attorneys -- Well the
9 attorneys never talked to you before they
10 put you on. Did they --

11 A No, they did not.

12 Q When they did talk to you the night
13 before, who was it that talked to you?

14 A I believe -- It wasn't Mayo. It
15 was the other one. God, I just had a
16 brain warp here. It's not Ford. What is
17 his --

18 Q Mr. Mayo?

19 A Is it Mr. Ford? There were two of
20 them. There's been so many attorneys with
21 my brother, I swear, I get confused.

22 Q That's okay. Whoever it was that
23 called you the night before --

24 A Right. It was one of the two of

1 them. I know it was Mr. Mayo, and it was
2 the older one of the two. And he spoke to
3 -- He called about -- between 11 and 11:30
4 at night to just -- he said, "Let me just
5 go over some testimony with you that we're
6 going to be presenting tomorrow," and kind
7 of gave us what we should or should not
8 say.

9 Q What did he go over with you that
10 night?

11 A He asked us not to say anything
12 negative about Billie because it would not
13 -- she was already a victim, and that
14 there were going to be mannequins and bad
15 pictures and everybody would already feel
16 pretty bad about it, as did we, and that
17 it would be in our best interest not to
18 bring up anything negative about Billie
19 because it would make us look bad to the
20 Court.

21 Q Have you had occasion -- You said
22 that Billie and Jon lived with you for a
23 while.

24 A Jon and Billie did not live with me

1 together. Jon lived with me, and then he
2 and Billie got together and then they were
3 married. They had their own place.

4 Q Well, but I mean, you had an
5 opportunity to see them actually
6 interact.

7 A Correct.

8 Q Do you know anything at all
9 concerning --

10 MR. BUCHANAN: And I'm going to
11 make this question a little long, Judge,
12 directing the Court's attention to that
13 portion of the trial which is unrebutted
14 that the phone lines were disconnected
15 going into the house, which I assume was a
16 factor in premeditation.

17 Q Did you have any information for
18 these attorneys concerning those phone
19 lines and Jon's penchant for disconnecting
20 phone lines?

21 A Jon has a habit of disconnecting
22 phone lines. The first time that I was
23 made aware of him doing this was in
24 Fayetteville, North Carolina, and what was

1 happening was he was having a -- he and
2 Billie were having a party at their
3 apartment complex. Apparently it was a
4 loud party, and the neighbors were going
5 to call the police, or had told them that
6 if they didn't keep the noise down they
7 would call the police. Jon went and
8 disconnected their phone so that they
9 could not call the police. This angered
10 these people that he had done this, and
11 somehow a window got broken out in
12 someone's car. It was not Jon that had
13 done it, but somebody at the party
14 apparently had done this. The police were
15 being called anyway, and I don't know
16 whether Jon called me or Billie called me.
17 One of them called me to come over to the
18 apartment complex because I knew a lot of
19 the policemen from them eating at our
20 restaurant in Fayetteville, and I think
21 they were hoping that we could help them
22 because they might be in trouble because
23 the police were called, and the phones
24 were disconnected and there was some

1 damage done to this particular car. I
2 believe it was all thrown out of court
3 because the lady's testimony as to the
4 excess in damages that she said she had
5 didn't hold up in court.

6 Q Okay. Do you have any other
7 instances that you know of that Jon
8 disconnected phone lines before he would
9 engage in conversations with people?

10 A My mother. He disconnected my
11 mother's telephone.

12 Q On one or more occasions?

13 A I know of one particular. He was
14 coming home, and my mom was going to call
15 her sister, to go over to her house, and
16 he -- he doesn't cut the phone lines, he
17 knows how to just disconnect them, and
18 then you can connect them back up. So, he
19 just -- that's what he does.

20 Q Why does he do that?

21 A My sisters and I were talking about
22 this, and what -- but he's one of seven
23 kids. He's the youngest one, and I'd say
24 vying for attention in that sometimes we

1 don't listen to Jon, or Jon will rant and
2 rave, and, you know, we'll be like, "Jon,
3 just shut-up. Just stop. Just whatever,"
4 and he wants you to listen to him because
5 no one -- you know, being the last of
6 seven kids, we're all vying for attention
7 there, but Jon, he wanted your attention.
8 He wanted you to listen to him, and then,
9 you know, if you needed to call somebody
10 or whatever, but he just wanted you to
11 just listen to what he had to say.

12 Q On any of these occasions that he's
13 disconnected with your mother or neighbors
14 or whatnot, has he ever hurt anybody?

15 A No.

16 Q Was the purpose seemingly to get
17 the undivided attention of the person?

18 A So that they would listen to what
19 he had to say, yes.

20 Q So, if the attorneys had talked to
21 you before trial, you would have been able
22 to furnish them with this explanation for
23 the disconnection of the phones.

24 A Yes.

1 Q And that he had, in fact, on
2 previous occasions disconnected the phone
3 lines of other people with no intent to
4 hurt them whatsoever.

5 A That's correct.

6 Q Did you have opinions, based on
7 your observations of Billie, about
8 Billie's character?

9 A I don't like to say bad things
10 because I don't believe she deserves to be
11 dead.

12 Q I understand that, but --

13 A I know --

14 Q -- I'm talking about what attorneys
15 could have found out from you had they
16 come and done -- and interrogated you
17 previous to putting on their guilt or
18 innocence case. And I know this may be
19 some of it unpleasant, but if you would,
20 just -- we need to get it down in the
21 record.

22 A I did not like Billie for a couple
23 of reasons. It's not that I didn't like
24 her. We got off to a rocky start.

1 Whenever he started dating Billie and she
2 came over to the house, the -- right out
3 of the fence, you know when you're sitting
4 there and you're introduced to someone,
5 she told us that she was getting her
6 Masters in premed at college, and I said,
7 "You are," and so I started asking her
8 about it, and, of course, as it came out,
9 that's not the case. It was an EMT. And
10 that doesn't matter. I understand that
11 doesn't matter. It's just that from the
12 start, she would just tell stories. You
13 didn't have to lie or fabricate on
14 anything. She would just tell stories,
15 for instance, on that.

16 The other thing is, I was upset
17 because Jon was dating this other girl
18 named Hope at this apartment complex. She
19 was a lovely girl. And somehow Billie got
20 involved. I was concerned that she
21 already had two children. Jon was just
22 now getting -- He was brought to my house
23 getting his life together.

24 MR. EARLS: Your Honor, again, I'm

1 objecting to this because I don't see it
2 has any relevance to anything.

3 THE COURT: Do you want to comment
4 before I rule?

5 MR. BUCHANAN: I'll move along,
6 Judge.

7 THE COURT: Thank you.

8 Q Now, specifically, though,
9 regarding Billie and her belittling of
10 Jon, have you seen and witnessed her
11 belittle Jon?

12 A Yes.

13 Q All right. Would you tell the
14 Court, without telling him every
15 conceivable thing because we don't really
16 need to know every conceivable thing but,
17 some examples and what you did observe
18 about that?

19 A Basically that she was the one in
20 control. If he was over at our house, it
21 was -- she would like, "You need to be
22 here," or, "You took the wrong car," or,
23 "You," -- she'd be angry with him about
24 going to work. They would have fights

1 about whether or not -- you know, him
2 working or not working, and who -- you
3 know, who was going to be -- I think they
4 were kind of vying whether he should be
5 the one -- the breadwinner having the job
6 and it would fluctuate or was she going to
7 be the one, you know, and her going to
8 school, and I think that was a lot of
9 where all there tensions were. They got
10 in to where they were having financial
11 difficulty, and I think that was a lot of
12 their problems, was all their money
13 problems that they had.

14 But, yes, she did belittle him.

15 She said he was stupid. She said he
16 couldn't -- that she needed to be in
17 charge because of -- she was better able
18 at handling money. I wouldn't maybe
19 disagree with that at the time.

20 Q When you would see her do this sort
21 of thing, what would be Jon's reaction?

22 A Jon went along with everything
23 Billie said. Even now, we call on the
24 telephone, and if I say anything negative

1 about Billie, Jon's angry with me.

2 Q He's still defensive of her.

3 A Very.

4 Q Did you have occasion to know
5 whether or not Jon was a Christian?

6 A Jon, when he came to my house -- We
7 go to church on Sunday. My husband's a
8 missionary, his family's missionary, from
9 African Inland Mission, and Jon came with
10 us, and he was baptized at my home -- at
11 our church.

12 Q If the attorneys had come to you
13 sometime before, could you have produced
14 pictures for them and videos of him in the
15 position of being a loving father?

16 A Yes.

17 Q Do you know if any of those were
18 produced at trial?

19 A Not to my knowledge. We weren't
20 allowed in here, so I'm not sure what took
21 place in here. Not to my knowledge. No
22 one ever asked for any.

23 MR. BUCHANAN: May I approach and
24 get this marked, Your Honor?

1 THE COURT: Has the State seen what
2 you have?

3 MR. EARLS: No, I have not.

4 **(Exhibit 2 was marked.)**

5 MR. BUCHANAN: Your Honor, may I
6 approach the witness?

7 THE COURT: Certainly.

8 Q Ms. Davis, I want to show you
9 what's been marked as Exhibit 2.

10 A I took my glasses out. Do you have
11 reading glasses?

12 Q Yes, ma'am.

13 A My age.

14 Q And I ask you if those are pictures
15 that are accurate representations of what
16 they seek to depict.

17 A Yes.

18 Q And are they various pictures of
19 Jon in stages of family life and his
20 children and his family?

21 A Yes.

22 MR. BUCHANAN: Your Honor, I'd ask
23 that they be placed into evidence at this
24 time.

1 THE COURT: Any objection?

2 MR. EARLS: No, sir.

3 **(Exhibit 2 was entered.)**

4 Q And in case I haven't asked this,
5 were those available at the time? If the
6 attorneys had asked you for them, could
7 you have gotten those types of pictures
8 together?

9 A Correct, yes.

10 Q You have, in fact, produced a short
11 three-minute or less than three-minute
12 video; have you not? On movies of him in
13 the family situation; have you not?

14 A Yes.

15 MR. BUCHANAN: May I have this
16 played, Your Honor?

17 MR. EARLS: I've not seen that,
18 Your Honor.

19 MR. BUCHANAN: I know you hadn't.
20 We just got it last night.

21 It's so short, Judge, I'd like to
22 show it to everybody and pass upon it.

23 THE COURT: We're not dealing with
24 a jury, so I'll let it be shown and then

1 decide, General, if you have an objection
2 or not.

3 A I brought this video. It's kind of
4 where Jon's head's at with his family and
5 what we were doing with the family.

6 Q I think what we're going to do is
7 watch it first and then --

8 A All right.

9 Q But quickly, it was produced by
10 you, and it accurately depicts Jon in the
11 family mode and doing things with the
12 children and things of that nature. It
13 hadn't been doctored or anything to be
14 fake photos or anything, has it?

15 A No.

16 MR. BUCHANAN: And, Judge, it has
17 some background music, and we're just
18 going to go ahead and put it down
19 -- volume down to nothing.

20 (Said videotape was shown.)

21 THE COURT: We've viewed the video
22 now. Does the State have any objection or
23 comment?

24 MR. EARLS: Yes, sir. I think the

1 content of that, that I observed, looks
2 like two-thirds of it dealt with children
3 in the home and what they were doing, not
4 what Mr. Hall was. There's no indication
5 that Mr. Hall is even in some of this
6 video. I don't know that it accurately
7 depicts what it purports to depict.

8 THE WITNESS: If the sound was --

9 THE COURT: Hold on just a minute,
10 ma'am.

11 MR. ELLIS: Your Honor, I observed
12 the tape. The reason we turned down the
13 sound was there's a song in the background
14 which would not have been admissible.
15 However, there is conversations by Mr.
16 Hall on the tape to the kids, and that
17 would have been extremely relevant at the
18 mitigation phase, the fact that he's
19 interacting with the kids, that they're
20 interacting with him, that they like him,
21 that they get along with him and would --
22 and actually would have probably rebutted
23 some of the State's position during the
24 course of the trial, and it's very

1 relevant and should come in.

2 THE COURT: Anything further,

3 General?

4 MR. EARLS: No, sir.

5 THE COURT: Of course, none of us
6 have had the advantage of hearing the
7 voice. I understand the music might not
8 have been relevant. The voice, I take it,
9 could be identified. I can only assume
10 that since nobody's heard it and
11 identified any voice on the tape.

12 MR. ELLIS: Your Honor, we could
13 replay it again with the sound for her to
14 identify the voice if you would like.

15 THE COURT: General?

16 MR. EARLS: If they say it's on
17 there, that's fine. I'll take their word
18 for it.

19 THE COURT: I'm going to let it in.

20 Do you want to have it marked Exhibit 3?

21 MR. BUCHANAN: Yes, sir.

22 (Exhibit 3 was marked
23 and entered.)

24 Q I realize I'm skipping around a

1 little bit between family history and
2 things that relate to guilt or innocence,
3 but I do want to make sure that I'm clear
4 in the record. The attorney -- The first
5 time you talked to an attorney was the
6 night before you went on in the punishment
7 phase. Correct?

8 A Correct, between 11 and 11:30 at
9 night.

10 Q Is there anything that you know
11 about Jon, in his conduct or your
12 observations, that would have made you
13 think that he would have ever
14 premeditatedly killed Billie?

15 A I don't believe that he would have
16 -- that he did premeditatedly kill her.
17 He loved her. He was hopelessly in love
18 with her. I wish -- We all wished that
19 they would have split up, but he loved her
20 so much.

21 Q Well I'm not asking your opinion so
22 much as I'm asking, is there anything that
23 you observed in their relationship that
24 would lead you to believe that he could or

1 would ever premeditatedly kill this lady?

2 A No.

3 Q With that available, would you have
4 told the attorneys that had they come and
5 talked to you previous to when they did
6 talk to you?

7 A Correct, yes.

8 Q Now when Jon was growing up, would
9 you tell the Judge a little bit about his
10 father and his father's conduct of himself
11 as regards your mother?

12 A My father would be -- would drink,
13 and when he drank, he would come home,
14 especially Thursday nights, -- so I'm
15 assuming now as an adult that that must
16 have been payday because on that
17 particular night he would be drunk, and he
18 would -- he and my mother would always get
19 into fights and they would start picking
20 at each other, and he would beat my
21 mother, and he -- We had one particular
22 fight at the --

23 MR. EARLS: Your Honor, again, I'm
24 making the same objection. I don't

1 understand how his father's treatment of
2 his mother is relevant to this Defendant's
3 post-conviction petition.

4 MR. BUCHANAN: Well, Judge, social
5 history and background is going to be very
6 relevant. When Dr. Caruso testifies,
7 he'll testify that the better one he has,
8 the more accurate the diagnosis. I don't
9 know anybody that would even dispute him
10 on that. They didn't talk to him. I
11 think I've got to get into the record
12 everything they could have found out.

13 THE COURT: I'm going to let you
14 proceed with it, again, because it's
15 taking the avenue not as evidence to
16 contradict the basis of the guilt or
17 innocence at the time but something that
18 his lawyers could have allegedly
19 discovered during the course of their
20 representation that could have been a
21 factor at the sentencing phase. Go ahead.

22 MR. BUCHANAN: And, Judge, that's
23 why I'm trying to preface some of the
24 questions because like the premeditated

1 question, I wanted that -- to direct the
2 Court's attention that that was available
3 for them there, for her to testify at the
4 guilt or innocence phase. This is, of
5 course, much more mitigation, social
6 history.

7 THE COURT: Go ahead.

8 Q All right. He drank.

9 A Yes.

10 Q And the mother and the father would
11 fight.

12 A Correct.

13 Q All right. Would they pick at each
14 other?

15 A Yes. My mom would pick at him, and
16 then he would have a breaking point, yes.

17 Q Now, would he appear to just lose
18 it, explode --

19 A Yes.

20 Q -- and walk on over to violence?

21 A One particular night was very bad
22 in that he -- Sometimes you try to forget
23 this stuff.

24 Q I understand.

1 A He would -- This one night in
2 particular, he had pinned her down on the
3 floor, and he was beating her head on the
4 floor, and there were big clumps of hair
5 laying on the floor and there was a lot of
6 blood, and Jon was just little. He was, I
7 don't know, two or three years old. I
8 remember he went and got a fly swatter and
9 was trying to hit Dad to make him stop,
10 and we all tried to make him stop.

11 Q Living in that household, was he
12 ever exposed to a learned behavior of
13 conflict resolution peacefully, wherein
14 folks would talk things out calmly?

15 A I think looking back now that it
16 was difficult to do because there was
17 seven children there. So I don't know how
18 much alone-time they might have had to go
19 and work their problems out, or how much
20 of a support system my parents themselves
21 had to deal with all the issues and
22 responsibility of having seven kids. My
23 mother and father, for whatever reason, it
24 was kind of this -- there would be this

1 violent thing and then they'd be all
2 lovey-dovey. Then they'd be violent and
3 then they'd be lovey-dovey. It was like
4 -- It was like they thrived on it, it gave
5 them something to do. It would, you know,
6 -- When I was older, I would just take the
7 little kids and leave. It got to the
8 point sometimes I'd say, "If you guys are
9 going to kill each other, please do it
10 while we're not here. We don't want to
11 see it."

12 Q When you say "the little kids",
13 that would include Jon; would it not?

14 A Definitely Jon. We always tried to
15 get him out of there, but he did witness a
16 lot.

17 Q So his father reacted to his mother
18 in a similar fashion to the way he reacted
19 apparently to Billie this night.

20 A Right, kind of a love/hate thing
21 that they -- And I think my mother thrived
22 on it. I don't know why they would never
23 have gotten divorced and chose to live
24 like that.

1 Q Who probably, at least as looking
2 at May to July of 1994, -- who probably in
3 the family knew Jon better or was more up-
4 to-date with Jon than the other siblings?

5 Who would be probably the number one
6 person that you would want to go to to
7 talk about Jon?

8 A That would probably be me. In
9 which years? 19- what?

10 Q 1994, before him and Billie -- say
11 May to July.

12 A Oh, I -- that would have to be
13 probably my mother because that was in
14 Tennessee. I lived in North Carolina at
15 that time, and so -- but Jon called my
16 mother regularly.

17 Q Okay. Of the siblings, who would
18 that probably be?

19 A Probably Jeff.

20 Q Okay, let's talk about Jeff. Who
21 is Jeff?

22 A Jeff was my brother. He died of
23 AIDS, I believe in 1995.

24 Q Was Jon a regular confidant of

1 Jeff?

2 A They were very close, very close.

3 In fact, Jeff had a very calming effect.

4 He was a wonderful brother.

5 Q In 1994, July of 1994, August of
6 1994, September of 1994, was it common
7 knowledge that everyone knew that Jeff was
8 dying of AIDS?

9 A Right. He apparently had had this
10 for ten years, and he was married and had
11 children. We never knew he had AIDS. He
12 -- Because of the stigma that was attached
13 to it, he never told any -- he told us at
14 a family reunion. We kind of knew, and
15 then we had a family reunion because we
16 knew he was dying..

17 Q Do you know of any attempt by any
18 attorney or investigator for an attorney
19 to ever get a'hold of Jeff to preserve his
20 testimony before he died?

21 A No attorney tried to contact us. We
22 were trying to contact him to get his
23 testimony put in, but no one would hear
24 us.

1 Q And, when did Jeff die?

2 A He died on July 4th, and I believe
3 it was '95.

4 Q 1995.

5 A Uh-huh.

6 Q So, between July of 1994, some
7 attorney, some investigator, some
8 somebody, Jeff was available from July of
9 1994 on the date that this offense
10 occurred all the way up until July of '95.

11 A Right. I believe that Sheryl even
12 went to -- and got an affidavit notarized
13 by Jeff saying that no one's contacted him
14 and that we were trying to get his
15 testimony before he would die because we
16 knew his health was deteriorating.

17 Q Were you and Sheryl and Kathy and
18 your mother in regular contact with each
19 other about Jon during the time from '94
20 to when Jeff died in '95?

21 A Yes.

22 Q Describe, if you will, how you feel
23 your efforts were at trying to get the
24 attention of the attorneys to get

1 something done regarding Jeff.

2 A Well we were frustrated in that no
3 one would do anything about Jeff, and we
4 knew that Jeff was dying and that we
5 wouldn't get his testimony in. We knew
6 that Jeff was the one that actually turned
7 him into the police after Billie was
8 killed. We also know that when Jon went
9 to Jeff's house, he didn't realize he had
10 killed her, and his frame of mind and what
11 his demeanor -- all that information, Jeff
12 had first-hand knowledge of, but we
13 weren't -- no one would get that
14 information from Jeff, and Jeff is the one
15 that called the police and had them come
16 and pick Jon up.

17 Q So that testimony was lost to the
18 world in July of '95.

19 A Correct.

20 Q Were you familiar with Jeff -- I
21 understand AIDS is a degenerative disease.
22 Was he healthy enough between July of '94
23 and July of '95 to at some time take his
24 statement?

1 A Yes. My sister Sheryl would
2 actually be better able. She kept pretty
3 extensive notes on everything, a timeline.

4 Q Okay. Did your father ever -- You
5 said he was a drinking man and that he
6 would, after being provoked, resort to
7 violence with your mother. Do you know if
8 he was ever treated for -- or given any
9 psychological counseling or anything of
10 that nature?

11 A No, but his father was the same
12 way.

13 Q His father was the same way?

14 A Correct. That was one of the
15 grandparents I lived with. His father's
16 name was Chuck, and he also was an
17 alcoholic and he beat my grandmother, and
18 there was a particular night we came home,
19 and he had taken a knife and cut up all
20 her clothes and stuck the knife in the
21 door frame of the door, and we were afraid
22 because we didn't know what he was going
23 to do to us, and that was living at my
24 grandparent's house. That was my father's

1 father.

2 Q So Jon's paternal grandfather
3 resolved conflict in this nature and his
4 father did.

5 A Correct.

6 Q Could you have told an attorney's
7 investigator or an attorney that at any
8 time before you were called on the night
9 before you were called to testify?

10 A Yes.

11 Q Would you have been willing to do
12 so?

13 A Yes.

14 Q Would you tell the Court a little
15 bit about Jon's fears as regards police
16 officers? Did Jon have any, what you
17 would have observed to be, more than
18 normal fears of police officers?

19 A Yes. My husband and I owned a
20 restaurant, Golden Corral Family
21 Steakhouse in Fayetteville, North
22 Carolina, and we had many police officers
23 that stopped and ate at our restaurant,
24 and we encouraged them to stop and eat at

1 our restaurant because we felt safer. So
2 they would come into our restaurant, but
3 if Jon was there, Jon wouldn't stay out
4 and talk with the police. He would always
5 go to the back of the house, and, in fact,
6 one of our best friends, his name was
7 Barry Fisher, is an officer, and we -- he
8 even noticed, "Why doesn't Jon talk to
9 me," or, "Why is Jon so aloof," and Jon
10 was just totally terrified of police
11 officers.

12 I know of several instances when he
13 was younger that he felt that he was
14 mistreated or -- Jon's kind of a black and
15 white person here, in justice or whatever,
16 and he feels that if they don't give you a
17 chance to talk or explain something the
18 way it is, then he gets angry and he just
19 -- Apparently a police officer sold him a
20 car, and it turned out that the whole
21 floorboard of the car was rusted out.
22 There was a hole in it. So when he tried
23 to get a'hold of this officer to take it
24 back, that it was a lemon, the guy gave

1 him a hard time, and I think eventually
2 they ended up in some altercation later at
3 another time. I shouldn't say that. I
4 don't know what I'm trying --

5 Q So you've witnessed, in layman's
6 terms, what seems to be kind of a paranoia
7 on his part.

8 A He definitely had a paranoia of
9 police officers.

10 Q Would you have been able to convey
11 that to the attorneys or their
12 investigators had they interviewed you
13 sometime in that three years, three and a
14 half years, they were waiting for trial?

15 A Yes.

16 Q Would you tell the Court how Jon
17 interacted with pets?

18 A He had -- We ended up with it.
19 It's a dog named Sampson. It was a white
20 Samoyed, and it was a beautiful, beautiful
21 dog, but it was very much Jon's
22 personality. He had gotten it as a little
23 puppy, and he never would put a collar or
24 a leash on it because he wanted it to be

1 free, and that was fine when you lived in
2 Pennsylvania with my mom where there was a
3 lot of acreage that you could just run
4 with the dog, but when he brought it up to
5 North Carolina, I lived in a little
6 suburban-type, you know, neighborhood, and
7 dogs had to be leashed and a collar on it,
8 and it was very difficult to control the
9 dog because Jon had always let it be free,
10 and the dog was very loving, and he loved
11 the dog, and, you know, he just pampered
12 it like a little baby, and the dog turned
13 out to be very much like Jon. It was kind
14 of hard to control. You know, it was a
15 very loving -- he was very loving, but it
16 was hard to control when he didn't like
17 being controlled.

18 Q Did you ever see Jon exhibit any
19 abusive conduct toward any animal?

20 A No, he was always very loving.

21 Q You made a statement to my
22 investigator that said that the dog did
23 not want to be controlled like Jon. Can
24 you tell the Judge what you mean by Jon

1 didn't want to be controlled?

2 A Unfortunately, just like his
3 behavior here in the courtroom, he wanted
4 to control the situation. He wants to be
5 in charge and tell people -- try to get
6 his point across because he has all these
7 years of anger and frustration and
8 feelings that people haven't helped him or
9 whatever, and, so, you know, we're telling
10 him, "Jon, please be quiet. Please allow
11 someone to help you," but he has no trust
12 for anyone anymore, and he's coming across
13 as angry and not exactly the same person I
14 remember from the video. He -- It was
15 just very hard. He probably felt like he
16 never had control because he was the last
17 one of seven kids. He's the last one on
18 the totem pole, so ...

19 Q When you were talking back and
20 forth between your mother and your other
21 sisters about getting the attorneys'
22 attention, do you know if any investigator
23 ever talked to any of the sisters?

24 A I don't believe that that -- No

1 attorney talked to any of us. I remember
2 the name Gloria, but I --

3 Q Gloria Shettles?

4 A Yes. And we were excited that
5 someone was trying to contact us. We kind
6 of got excited. We thought, oh, good,
7 someone's going to try to help, but that
8 was it.

9 Q When Gloria got on the case, is she
10 the one that read out of the DSM about
11 intermittent explosive disorder to you or
12 one of your sisters?

13 A That would be to my sisters.

14 Q So there appeared to be some kind
15 of diagnosis going on by whatever Gloria
16 was.

17 A Correct.

18 Q Did you ever notice any follow-up
19 on intermittent explosive disorder being
20 done by the attorneys? At least as far as
21 your observations.

22 A No.

23 Q But when this term intermittent
24 explosive disorder cropped up in y'all's

1 conversations, that was well before any
2 trial; was it not?

3 A Yes. And it made sense because it
4 described Jon to a T.

5 Q How would -- We've talked a little
6 about Jon's father and his alcoholism.

7 Would you tell the Court how Jon's father
8 treated Jon growing up?

9 A Somewhere in my father's head he
10 got it that Jon wasn't his son. So, he
11 would throw that up in my mother's face
12 all the time. My brother Joel, who is
13 older than Jon, then would -- he would
14 take Joel around on his back, do piggyback
15 rides and all that wonderful fatherly
16 stuff and put him down, and Jon would come
17 up and he'd say, "Give me a piggyback
18 ride," and Dad would push him away, or Dad
19 would take Joel and get him ice cream and
20 bring it home and they would eat it in
21 front of Jon, and Jon wouldn't get any. I
22 mean, he just pretty much said Jon's not
23 his child, and then my mother would
24 overcompensate and be more loving to Jon.

1 Q Would he ever say that to Jon
2 directly, that, "Jon, you're not my son"?

3 A Oh, he made it very clear to all of
4 us that Jon wasn't his son, and I'm not
5 sure that Jon remembers that. I've talked
6 to him about that.

7 Q But it was said directly to him.

8 A Oh, yes. It was said to all of us.

9 Q So the father was not very loving
10 toward Jon.

11 A Not at all.

12 Q What about Jon's drug use? Did you
13 ever notice it when you were in North
14 Carolina around him that he used drugs and
15 alcohol?

16 A No one would ever do drugs in front
17 of me because I don't do drugs and I don't
18 drink, so -- but I did know that both he
19 and Billie did do drugs together, and that
20 was another reason why I didn't
21 particularly care for Billie, because I
22 thought that was the wrong path that he
23 was going down, and I was -- when he came
24 to live with us, we were trying to turn

1 his life around.

2 Q Have you ever known Jon to do
3 anything, I'm going to use the term
4 "noble" but I'm going to give you an
5 example, wherein he would come to the
6 rescue of someone or some thing or
7 intervene on behalf of somebody, damsels-
8 in-distress type of thing or something of
9 that nature?

10 A Jon always was for the underdog,
11 yes. He would do that just like when he
12 was just a little baby trying to protect
13 Mom with the fly swatter.

14 Q Have you seen him -- I know you
15 gave the example of the fly swatter and
16 your mother. Have you ever seen him try
17 to intervene and help somebody that needed
18 help that was the underdog?

19 A I'm sure I have because that's
20 Jon's personality. It's escaping me right
21 here. I could think about it for a minute
22 and come up with some. That was Jon's
23 personality. His personality -- The Jon
24 that sits before you is not exactly the

1 same Jon that we had years ago when this
2 whole thing happened. Jon's life ended
3 when Billie's life ended, but he was -- he
4 would give you the shirt off his back. He
5 would -- You know, he would work a whole
6 day of work, and then if your car was
7 broken down, -- people would bring it over
8 and leave it, and he would stay up 'til
9 two or three o'clock in the morning
10 working on their car and then charge them
11 nothing, which I think is one of the
12 reasons why Billie had a gripe about this
13 because, he was a mechanic, why not get
14 paid for this, but Jon just did it because
15 they were friends.

16 Q Now your mother and father, you
17 talked about how they would use violence
18 on each other. Did any of that ever
19 involve gun play?

20 A Yes.

21 Q Would you tell the Court about
22 that?

23 A We used to -- at night we would
24 take the guns and put them under our beds.

1 We would take the shells, put them under
2 our beds. We even took knives out of the
3 drawers and put those under our beds.

4 Q When your mom and dad would fight,
5 you were talking about gun play, you did
6 see them use guns with each other?

7 A Yes. I saw my mother actually hold
8 one on my father and give him ten to get
9 across the yard, and my boyfriend actually
10 took the gun off of her, only to find out
11 that it was not loaded, but, of course, as
12 kids, we don't know whether the guns are
13 loaded or not loaded or what have you. We
14 were just scared.

15 Q Now, as regards disconnecting
16 phones, did your father ever pull the
17 phone or disconnect the phone so that your
18 mother couldn't make any phone calls?

19 A The night that he beat her up, the
20 very worst time, and that was almost
21 really the last time that he ever really
22 beat her up because they -- the constable
23 came, and he ripped the phone off the
24 wall.

1 Q And that disconnected it.

2 A Yes. We were trying to call out
3 for help.

4 Q Did you ever know Jon to have
5 suffered anything when he was young of a
6 nature that was traumatic to his body,
7 like a bad fall, a bad wreck, a bad
8 accident, anything of that nature?

9 A We had a car accident, and you'll
10 see scars on his side I think where there
11 was broken glass. So he has quite a few
12 scars along his side from a car accident
13 or a motorcycle accident or something like
14 that when Jon was older, and I had already
15 left for college then, so I was not at
16 home.

17 Q How long had the family known that
18 Jeff had AIDS?

19 A To be honest with you, I only knew
20 it for like a year prior to his death. He
21 kind of kept it -- at least -- unless he
22 talked to someone else. I don't know how
23 long Jon knew. I don't know.

24 Q Were you at this family reunion in

1 1993?

2 A Correct. That's what that one
3 picture is in this grouping of --

4 Q Who else was at the family reunion?

5 A Just about everybody in the family,
6 on the Hall side.

7 Q Was Billie there?

8 A No.

9 Q Was Jon there?

10 A Yes.

11 Q Were the kids there?

12 A Yes. Well, his -- Jon's two little
13 ones, the two little ones were.

14 Q Okay. And that's Jessica and
15 Stephanie?

16 A Correct.

17 Q And do those pictures show how they
18 were dressed and everything and what kind
19 of care he was giving them, at least as
20 far as you can tell by a picture?

21 A Yes. They were his little
22 princesses, yes.

23 Q All right. And, why was that
24 family reunion called together? Was that

1 -- Did that have anything to do with Jeff?

2 A Yes, because we knew he was dying,
3 and we knew that we all wanted to get
4 together and be together as a family.

5 Q Do you know why --

6 A As much violence as there was, we
7 do love each other, too. I mean, that's
8 kind of a bizarre thing, but we do.

9 Q How many brothers and sisters are
10 there to Jon?

11 A Jon has three brothers and three
12 sisters.

13 Q And is Jeff one of those brothers?

14 A Correct.

15 Q Who is now deceased.

16 A Yes.

17 Q And that family reunion was called
18 because of Jeff having AIDS.

19 A Correct.

20 Q Did you ever see Jon be in any way
21 shape or form anything other than a good
22 father?

23 A He was a wonderful father. That's
24 what was so surprising about this whole

1 thing, that Jon was the nurturing one, and
2 then later in court we found out that they
3 said that Jon never took care of the kids.
4 He was the one that always took care of
5 the kids. He's the one that dressed them,
6 and he's the one that always brought them,
7 you know, over to the house to play. When
8 I went over to his house, you know, Billie
9 was working. Billie was working very hard
10 on getting her education, in her defense,
11 and getting her education and going to
12 school, but Jon was the caretaker. He's
13 the one -- And they just loved him,
14 because he was like a big kid, kind of
15 like a big teddy bear, and they just
16 followed him around and -- you know,
17 because he played games. Again, he was
18 like a kid.

19 Q Did the violence between your mom
20 and dad reach a point where at some point
21 you or some of the other kids didn't live
22 with them?

23 A Not my -- Not my father. What
24 happened -- My stepfather. My mother

1 remarried after my father died, and this
2 man was awful, and I had come home from
3 college, and I refused to live at the
4 house with this man.

5 Q Was there a period of time when
6 Sheryl or Kathy or you or any of the other
7 boys didn't live in the house because of
8 your mother's living situation with either
9 your father or a subsequent husband?

10 A Yes. I think Jon and Joel were the
11 only ones that actually -- and Sheryl that
12 lived with the stepfather. The rest of us
13 -- The other one -- Jay had gone to the
14 military, and Kathy was married and had
15 her own house, and I was away at school
16 and came back and got a place of my own.

17 Q How about the stepfather? Was he
18 abusive to the mother?

19 A Yes, and we ended up finding out
20 that he was just kind of after her for her
21 money and her house.

22 Q And Jon saw -- whatever that
23 relationship was, he was exposed to that.

24 A Right. There was a point in time

1 where they had gotten a house, and this
2 particular house was designed that -- part
3 of the house was over here, but Jon's
4 bedroom was outside. You had to go
5 outside into another house to be where
6 Jon's room would be, so that he wouldn't
7 have access to any of the kids.

8 Q Has anybody in the family been in
9 counseling for any mental illness that you
10 know of?

11 A My sister Kathy went to counseling
12 with her husband. They went to AAA, and
13 he went through rehab and totally
14 recuperated and he became a wonderful
15 person. My brother Jay will not admit to
16 it, but I had him -- personally I had him
17 committed for -- and he was diagnosed with
18 manic depressant. He tried to commit
19 suicide when he was in Fayetteville.

20 Q Did you ever tell anybody that that
21 was on the defense team?

22 A Yes. Well, we tried. I don't know
23 that it ever came up.

24 Q Did anyone ever contact you and ask

1 you about that on the defense team other
2 than the night before trial, the night
3 before the punishment phase?

4 A No.

5 Q What kind of small child was Jon?
6 Was he well-behaved or was he a problem?

7 A He was kind of perfect. My mom
8 -- That's why we always laugh and say that
9 my sister Kathy, the oldest, and my
10 brother Jon was the golden children
11 because he was. He was a sweet, sweet
12 little boy, and he never got in trouble,
13 and he didn't have to be disciplined
14 because he wasn't the disciplinary
15 problem. Therefore, I'm wondering if
16 that's why the authority figure coming in
17 later in life was so tough because he
18 wasn't a bad kid. Up until he got into
19 his teen years and Dad -- after Dad died
20 and Mom had to go to work, I think there
21 was a lot of things that came into play
22 there. Then Jon was by himself because
23 Mom had to go to work, and then people
24 were imposing authority on him differently

1 than maybe what Mom had done, and I think
2 the problems started being created there.

3 Q During the trial, did you notice
4 anything, any conduct, that you thought
5 was inappropriate as regards jurors and
6 witnesses?

7 A The only thing that happened -- And
8 this is because we were down in the
9 basement. We were trying to see Jon. We
10 were trying to see if they would let us in
11 to see Jon. And we saw Billie's family
12 out in the hallway, and there were
13 different people that came by and gave
14 them hugs and stuff, and we didn't think
15 anything of it because if the tables were
16 turned, I'm sure there would be a lot of
17 people there supporting us and giving them
18 a hug, but later when we were upstairs and
19 the jury came out, one of the jurors was
20 one of the people that was downstairs, you
21 know. That was discussed. And I can't
22 truly remember that we just all discussed
23 that and we -- I think we did bring it to
24 the attention of the attorneys, but --

1 Q You don't know what they did with
2 it.

3 A No, I don't know what they did with
4 it, nor do I know -- you know, I can't
5 remember what they looked like, so I'm not
6 the one that really should be asked that
7 question. I just remember it being
8 remarked about. I was there when they
9 were remarking about it.

10 Q Did the attorneys ever express to
11 you their feeling about the case and Jon's
12 guilt? Did any of the attorneys ever do
13 that?

14 A After everything was said and done
15 and we were sitting down in that hallway
16 waiting for them to come back,
17 -- First of all, we thought we were here
18 to help in the guilt/innocent phase. We
19 didn't know that by the time they asked
20 for our testimony, it was actually -- he'd
21 already been convicted and now we were --
22 it was sentencing phase that we were
23 actually here for. So we didn't realize
24 that. So then when we were waiting for

1 the sentencing, they were talking to us
2 and said that, "Well, don't worry. I
3 don't think that they'll get the death
4 penalty," and I think they even said that
5 Billie's parents weren't even -- they
6 tried maybe to offer him something lesser,
7 you know, and we were thankful for that,
8 but when they came back with the guilt
9 verdict or the death penalty, we were
10 totally shocked. So after everyone left
11 and they took Jon away, we went over to
12 their office, and they said, "Well, so you
13 don't feel so bad, here's a letter," or
14 something that Jon had written about the
15 events of that night, what had happened,
16 and they showed us this letter and read
17 excerpts from it and said, "So you can see
18 that this was intentional," and we were
19 kind of in shock.

20 Q Was one of the things that was in
21 that letter had to do with the phone being
22 disconnected?

23 A Uh-huh.

24 Q And you still hadn't told him at

1 this point that disconnecting of the phone
2 was something that Jon did when he didn't
3 hurt people.

4 A We did tell them that. We did try
5 to tell them that, that --

6 Q Try, but he still didn't know that,
7 as far as you know.

8 A No, this is after the whole trial
9 is over. Yes, we told them that he -- Jon
10 had disconnected phones before.

11 Q But not before the trial.

12 A Not before 11 or 11:30 that night.

13 Q After the guilt or innocence
14 verdict had come back.

15 A Right.

16 MR. BUCHANAN: Can I have just a
17 moment, Your Honor?

18 THE COURT: Yes.

19 Q I want to make sure I'm clear in
20 the record here. When Billie would appear
21 to be trying to provoke Jon, would the --
22 would he react sometimes very calmly and
23 just take it?

24 A Yes. He wouldn't go against her.

1 He was in love with her.

2 Q Did you see any similarities
3 between his marriage to Billie and your
4 father's marriage to your mother?

5 A A lot of similarities.

6 Q And just briefly, what were those?

7 A The similarities are that they
8 seemed to love each other, but then they
9 would have these massive fights, and then
10 they would make up and everything was
11 fine, and you would find yourself being
12 sucked into their arguments and thinking,
13 well, you're going to help them, and,
14 "Well, Jon, you need to get your things
15 together and you need to leave," or, "You
16 need to go home," and then only to find
17 out that now you're the bad guy and now
18 Billie's mad at you because you suggested
19 that he leave or, you know, -- they've
20 already made up their peace, and now
21 anything that you said that was negative
22 is now turned against you. So the best
23 thing to do is try to stay out of their
24 business, but you'd get sucked into their

1 arguments and say, "Well why are you
2 living like this? You have little kids.
3 Why --", you know, "Don't fight," you
4 know, "You know how it feels."

5 MR. BUCHANAN: Pass the witness,
6 Your Honor.

7 THE COURT: General.

8 CROSS-EXAMINATION

9 BY MR. EARLS:

10 Q Would you give me your name again,
11 please?

12 A Debbie Davis.

13 Q Now, Ms. Davis, most everything
14 that you've testified to here today about
15 Jon's family you testified to at trial,
16 didn't you?

17 A I testified mostly about my -- the
18 relationship with my mom and my dad and
19 their fighting, yes.

20 Q All this information about his
21 family history and the fights and Dad
22 beating up on Mama and Granddaddy beating
23 Grandmama up and the guns and hair being
24 pulled, all that was brought out before

1 the jury, wasn't it?

2 A I did -- Yes, I did say that.

3 Q The jury still gave him the death
4 penalty.

5 A Yes.

6 Q As a matter of fact, you testified,
7 didn't you?

8 A Yes, I did.

9 Q Who else testified to all this?

10 A My sister Kathy and my sister
11 Sheryl and my mother I believe were here.

12 Q Now, you testified somewhat about
13 the relationship between Billie and Jon
14 Hall. Isn't it true that Jon was arrested
15 on several occasions for domestic assault?

16 THE PETITIONER: Objection.

17 MR. EARLS: Your Honor, if we're
18 going to go into family history, we're
19 going to have to take the good with the
20 bad.

21 A Yeah. Right, no, that's fine.

22 MR. BUCHANAN: If it's offered for
23 that purpose, yes, sir.

24 THE COURT: Go ahead.

1 A I don't have a problem with that. I
2 don't remember him being arrested in
3 Fayetteville, North Carolina.

4 Q No, I'm talking about arrested
5 period for domestic assault.

6 A Well, I don't know. I don't have
7 any knowledge of that because when Jon was
8 at -- well, actually, that's whenever I
9 think we brought him to North Carolina, is
10 when he got in trouble in Pennsylvania,
11 and I don't know whether that was domestic
12 -- I don't know anything about that. I
13 wasn't living there.

14 Q But you do know that the event
15 occurred.

16 A I think he got in trouble in
17 Tennessee, yes.

18 MR. ELLIS: I'm going to object,
19 Your Honor. If the event occurred and he
20 was arrested, that's one thing. If the
21 event occurred that he didn't, that's
22 another.

23 THE COURT: I don't know what she
24 has personal knowledge of. She's

1 testifying she doesn't know what occurred
2 up there, so that's -- I'm going to
3 sustain the objection.

4 A I think he --

5 THE COURT: Hold on a second and
6 let him ask the next question.

7 Q Now, at the time of the homicide,
8 Billie and Jon were estranged, going
9 through a divorce, weren't they?

10 A Yes, they were.

11 Q Was Jon precluded from contacting
12 her?

13 A I don't know. What do you mean?

14 Q Was there an order of protection
15 against him?

16 A I believe he did, but I also know
17 that Billie called him on the phone and
18 asked him to come over to the house.

19 Q Now, isn't it also true that as
20 part of this family history and part of
21 all this divorce, the children had accused
22 him of abusing them?

23 A You know, I don't know. I'm not
24 aware of that until -- you know, I had

1 heard that, and I think that that is
2 totally wrong.

3 Q Well, nevertheless, it's still part
4 of the family history, isn't it?

5 A I don't know. I wasn't part --

6 MR. BUCHANAN: Your Honor, I
7 believe that would be argumentative.

8 A Well, see, what I'm saying is --

9 THE COURT: She's testifying she
10 didn't know.

11 Q All right. Now, --

12 A I would be surprised.

13 Q Were you ever contacted by
14 investigators for the defense team?

15 A There was a Gloria Shettles, and I
16 remember her name, and we were trying to
17 get -- I don't remember ever going into
18 depth with Gloria. We -- I think there
19 was a phone conversation and we were going
20 to try to get more information at another
21 time.

22 Q But you were contacted by an
23 investigator.

24 A Gloria, maybe. I don't remember

1 whether it was her.

2 Q Why didn't you relay all this
3 information to her?

4 A We did -- I did try to, but she was
5 going to get back to me.

6 Q So, when did you do that? What was
7 the date?

8 A I wouldn't have any way of knowing
9 that. It would be like prior to Jon's
10 trial.

11 Q Now, you said you tried to contact
12 the defense team and did contact them
13 about Jeff, didn't you?

14 A I did not. This isn't my -- These
15 are questions you need to be addressing to
16 my sister Sheryl.

17 Q But efforts were made to contact
18 them about Jeff.

19 A Yes. I know that --

20 Q Why didn't you make efforts to
21 contact them about you?

22 A I did. In fact, that's how I even
23 got up with Gloria is, she had -- I think
24 she had sent a letter and gave us her

1 telephone number, and I tried on several
2 occasions to get in touch with Gloria, and
3 then one time I finally did get up with
4 Gloria, and we had maybe a brief
5 conversation and we were going to go into
6 more depth at another time.

7 Q Now, you said Jon has a history of
8 disconnecting phone lines.

9 A Yes.

10 Q And you were going to testify to
11 that at trial?

12 A I don't know what you mean, am I
13 going to testify to that.

14 Q Well, you're telling --

15 A People have asked me if he has a
16 history of that. Yes, he has a history of
17 that.

18 Q Your testimony on Direct was, on at
19 least one occasion he disconnected the
20 phone lines to keep somebody from calling
21 the police.

22 A Right.

23 Q Remember that?

24 A Yes. That was at the apartment in

1 North Carolina, yes.

2 Q And he would disconnect the phone
3 to keep his mother from calling the
4 police, wouldn't he?

5 A I think she was trying to call Aunt
6 Arlene, yes.

7 Q Okay. And that's because he would
8 always get in fights with his mother?

9 A No. He was trying to make her
10 listen to him without her leaving or going
11 over to my aunt's house. On that
12 particular fight, I don't know about that.
13 I just know about the one in North
14 Carolina.

15 Q Your testimony was he disconnected
16 the phone lines to make sure people would
17 listen to him.

18 A Correct. That's my testimony.

19 Q He didn't want anybody to have
20 help? Is that what --

21 A No, he wanted people to listen to
22 him.

23 Q Well how is disconnecting a phone
24 line going to keep them or make them

1 listen to him?

2 A I'm not disputing that this is a
3 bizarre behavior --

4 MR. BUCHANAN: Objection, Your
5 Honor. That's argumentative.

6 THE COURT: It is. The State was
7 certainly lenient on their objections, but
8 I sustain yours because you're exactly
9 right.

10 Q Jon has a history of angry
11 outbursts, doesn't he?

12 A Yes, he does.

13 Q He is what some people would call
14 hothead. Is that right?

15 A I would say so, yes.

16 Q If he doesn't get his way, he flies
17 off the handle.

18 A That's what they said. I only have
19 knowledge of when he came to live with me,
20 and we were trying to turn his life
21 around. I had heard of his angry
22 outbursts from being in Pennsylvania, yes.

23 Q Now, you are not a witness to
24 anything that occurred on the night of the

1 homicide, are you?

2 A No, I'm not.

3 Q You were not present, were you?

4 A No, I was not.

5 Q So, the testimony of all of Jon's
6 children where that he forced his way into
7 the house, you don't have anything to
8 dispute that, do you?

9 A I do not.

10 Q Now, isn't it also true, you were
11 asked and you responded that Jon was a
12 wonderful father?

13 A Yes, in my -- The whole time I saw
14 him with his children, yes, he was.

15 Q Now isn't it true that defense
16 counsel asked each child that while they
17 testified?

18 A I don't know; I wasn't in here.

19 Q You weren't present when that was
20 asked of each child?

21 A No, we weren't allowed in the
22 courtroom.

23 Q Well the transcript will speak for
24 itself.

1 A I do know children say a lot of
2 things if they are prepped correctly
3 because I had a daycare center, and I know
4 you can make kids say a lot of things.

5 Q Now, and just by clarification,
6 mostly everything you've talked about here
7 today was brought out at the sentencing
8 hearing by you.

9 A The things that I brought up at the
10 sentencing phase was the domestic violence
11 between my parents, and that's what they
12 wanted me to get out. I was not allowed
13 to say anything about Billie or -- I don't
14 know that I even testified about the
15 disconnected phones. I'm not sure. I
16 don't remember.

17 MR. EARLS: That's all I have.

18 THE COURT: Anything further, Mr.
19 Buchanan?

20 MR. BUCHANAN: Yes, Judge, just
21 briefly.

22 REDIRECT EXAMINATION

23 BY MR. BUCHANAN:

24 Q Was there ever a running joke in

1 the family about Jon messing with phones?

2 A Yes.

3 Q Can you tell the Judge what that
4 was?

5 A Well, I don't know if it was a
6 running joke or anything, it was just,
7 don't touch my phone.

8 Q Because he --

9 A He'd disconnect them. But he'd put
10 them right back. I mean, he didn't cut
11 the wires or he didn't do anything because
12 he would just -- he knows how to wire
13 phones and unwire phones.

14 Q Would you tell the Court why he
15 disconnects as opposed to cuts? Is there
16 something that you know of personally that
17 causes him to --

18 MR. EARLS: Objection, Your Honor.

19 THE COURT: Objection sustained.

20 MR. ELLIS: Your Honor, do you have
21 an opinion -- I mean, Ms. Davis, do you
22 have any opinion why he doesn't --

23 THE COURT: Hold on, gentlemen.

24 You're not going to get up and swap out on

1 this witness. That's highly improper
2 procedure, and I warn counsel one time.

3 Go ahead, Mr. Buchanan. I
4 sustained the objection.

5 MR. BUCHANAN: May I tender that,
6 Your Honor, as a proffer then?

7 THE COURT: Tender it as a proffer?

8 MR. BUCHANAN: Yes, sir.

9 THE COURT: It's clearly
10 inadmissible. If you want to put it on
11 the record as a proffer, go ahead. This
12 is an offer of proof that will not be
13 considered for purposes of my decision.

14 MR. BUCHANAN: Yes, sir.

15 Q Would you tell the Court how you
16 know that he disconnects the phones by
17 actual disconnection as opposed to cutting
18 wires?

19 A Because it costs money to -- If you
20 cut the phone wires, then you have to have
21 the phone company come out and reconnect
22 it and it costs money, and they didn't
23 have any money, he wouldn't have any
24 money. So, if you just disconnect it, you

1 can connect it back yourself.

2 Q And did he know that?

3 A Of course, yes.

4 MR. BUCHANAN: No further
5 questions.

6 THE COURT: Those last comments or
7 questions and responses were an offer of
8 proof.

9 Anything else of this witness?

10 MR. EARLS: No, sir.

11 (WITNESS EXCUSED.)

12 THE COURT: Call your next witness.

13 MR. BUCHANAN: Judge, may I ask you
14 one more question about procedure?
15 Because, quite frankly, every judge I've
16 done one of these for does it a little
17 different. I think I'm reading you that
18 you're gathering evidence now. You're
19 ready for an argument or a brief or
20 something later tying that evidence to the
21 issues. Is that fair to say?

22 THE COURT: Well, I'm going to hear
23 all the proof and render a decision, based
24 upon what you put on and what the State

1 puts on. Other than that, I don't see any
2 need to comment further. If you're asking
3 me whether I'm going to want you to give a
4 brief later, I'll tell you at the time,
5 when the thing's concluded.

6 MR. BUCHANAN: All right.

7 MR. ELLIS: Your Honor, we'd ask
8 that Clarence Stanfill be called.

9 CLARENCE STANFILL was called and
10 being first duly sworn, was examined and
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ELLIS:

14 Q For the record, would you please
15 state your name for the Court?

16 A Clarence Stanfill.

17 THE COURT: Please speak up.

18 Q Mr. Stanfill, where do you live?

19 A Lexington, Tennessee.

20 Q Can I have your address, please?

21 A 1066 Appleton Road.

22 Q And do you know Mr. Jon Hall?

23 A Yes.

24 Q And when did you first meet Mr.

1 Hall?

2 A 1994.

3 Q And how did you meet him?

4 A My father introduced me to him.

5 Q I'm sorry, I can't hear you.

6 A My father introduced me to him.

7 THE COURT: Please continue to
8 speak up.

9 Q And where does your father live?
10 Mr. Stanfill?

11 A 830 Appleton Road, Lexington,
12 Tennessee.

13 Q And what relation is that to where
14 Mr. Hall lived?

15 A What relation?

16 Q No, in what -- Did he live close to
17 Mr. Hall?

18 A Yeah, we lived about a mile from
19 him. He lived on, at the time, Pleasant
20 Hill Road. That's just about a mile from
21 Appleton.

22 Q How did your father know him?

23 A He met him through -- He just met
24 him through I think just a casual

1 acquaintance.

2 Q Did you have a chance to -- Well
3 did you know Mrs. Billie Hall?

4 A Casually.

5 Q Did you have a chance to see them
6 as a couple?

7 A Yeah.

8 Q And did you see Jon by himself or
9 her by herself?

10 A Yeah, quite a few times.

11 Q Would you consider yourselves
12 friends, acquaintances?

13 A Well I was just more like a friend
14 to -- I was a friend to Jon. She was just
15 like an acquaintance.

16 Q Did you ever have a chance to watch
17 Jon interact with his children?

18 A Yes.

19 Q How would you characterize Jon as a
20 dad?

21 A Excellent.

22 Q Describe to the Court some of the
23 things that he did for his kids.

24 A Well, quite a few times he worked

1 on some vehicles for me, and he often told
2 me that -- He worked at Helms Motor
3 Company in Lexington as a mechanic, and he
4 told me he quit his job 'cause his little
5 girl had cerebral palsy and that he had to
6 stay at home and take care of her. His
7 insurance would not cover her, so he had
8 to stay at home and take care of her, and
9 quite a few times he would bring the kids
10 around with him. I never heard him say --
11 you know, have a bad thought or say
12 anything out of the way to the kids.

13 MR. EARLS: Your Honor, excuse me
14 for interrupting, but, again, without
15 having to interpose my same objection
16 about the relevancy of this to the post-
17 conviction, I assume the Court's ruling's
18 going to be the same, but I don't want to
19 jump up every time a witness is called.
20 If I could have that standing objection on
21 this.

22 THE COURT: Certainly. I'll
23 overrule you for the reasons previously
24 stated, and I'll let counsel continue to

1 ask questions of this witness regarding
2 his personal knowledge.

3 Q Did you ever talk with somebody
4 from the D.A.'s office?

5 A I talked to a P.I., if that's what
6 you're asking.

7 Q Just for this hearing today, right?

8 A About today, about this hearing
9 today?

10 Q Yes.

11 A I just talked to the guy that
12 subpoenaed me. That was it.

13 Q Have you ever had a contact from
14 the Henderson County Police Department?

15 A About this case?

16 Q About what happened on the night
17 that Mrs. Hall was killed.

18 A No.

19 Q Did you talk to any of Mr. Hall's
20 defense attorneys at that time?

21 A No, I didn't.

22 Q Have you talked to any other
23 investigators other than the gentleman
24 that served you the subpoena?

1 A No, sir.

2 Q Did you ever witness Jon's demeanor
3 in terms of if he got stressed or things
4 weren't going his way?

5 A Never. I was never -- When I was
6 around Jon, Jon always carried himself as
7 a gentleman around me.

8 MR. ELLIS: Your Honor, I pass the
9 witness.

10 MR. EARLS: No questions.

11 (WITNESS EXCUSED.)

12 JOE HENRY STANFILL was called and
13 being first duly sworn, was examined and
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. ELLIS:

17 Q Mr. Stanfill, if you will, state
18 your name for the record, please, sir.

19 A Joe Henry Stanfill.

20 Q And where do you live, sir?

21 A I live at Lexington, Tennessee, 830
22 Appleton Road.

23 Q Do you know Mr. Jon Hall?

24 A I do.

1 Q When did you first meet Mr. Hall?

2 A Well I don't recall, but I'm just
3 figuring maybe a couple of years he moved
4 there. I was in and out of town quite a
5 bit.

6 Q How did you first meet Mr. Hall?

7 A He and I was working with some old
8 cars. He's a mechanic and I did some
9 mechanic work.

10 Q And did y'all become friends?

11 A Yes, we did.

12 Q How close did you live to Mr. Hall?

13 A Real close.

14 Q Did you have a chance to ever meet
15 Mrs. Billie Hall?

16 A Yes, I did.

17 Q And did you ever meet Jon's
18 children?

19 A Yes, I did. He always had the
20 children.

21 Q And how would he treat his
22 children?

23 A Good.

24 Q Did you ever have a chance to watch

1 him be a father to his kids?

2 A All the time. He was nice to them.

3 Q What would he do for his children?

4 A All I saw, he would always bring
5 them over to my house, and he would make
6 sure they had something to eat and treat
7 them real good.

8 Q Did Jon ever talk to you about
9 Billie Hall?

10 A Not much. I went and talked to
11 them one day together.

12 Q What did you talk to them about?

13 A About their place and how she
14 worked and how they got along. We talked.

15 Q Did you know that Jon and Billie
16 were having problems?

17 A No, not no bad problems. I never
18 asked him his personal business.

19 Q Did Jon ever tell you that Billie
20 treated him like a child?

21 MR. EARLS: Object to the leading
22 and to the hearsay.

23 THE COURT: Objection sustained.

24 Q Did Jon ever talk to you about how

1 Billie treated him?

2 A He did make a remark --

3 MR. EARLS: Object to any hearsay,

4 Your Honor.

5 MR. ELLIS: Your Honor, we're not
6 offering it for the truth of the matter
7 asserted. We're offering, again, that
8 this was available, that the defense
9 counsel and investigators at the time
10 could have used this information and
11 probed it further.

12 THE COURT: You're saying this
13 could have gotten in, this statement of
14 what was allegedly said?

15 MR. ELLIS: No, I'm not saying that
16 this statement could have gotten in, but,
17 Your Honor, it could have led to other
18 information that would have been
19 discoverable.

20 THE COURT: I'm going to sustain
21 the objection.

22 MR. ELLIS: Your Honor, I'm going
23 to offer for a proffer then.

24 THE COURT: Go ahead for those

1 purposes only.

2 Q If you'll finish your comment, Mr.
3 Stanfill.

4 A He made a remark to me one time
5 that his wife -- he couldn't work because
6 -- he couldn't afford to make enough money
7 to see after his family, his wife kind of
8 treated him like one of the kids. He made
9 that remark to me.

10 Q Did you have a chance to observe
11 his moods, Jon's moods?

12 THE COURT: Are we still in the
13 proffer?

14 MR. ELLIS: That's the end of the
15 proffer, Your Honor.

16 THE COURT: Thank you. Next
17 question.

18 Q Did you ever have a chance to
19 observe Mr. Hall's moods? Let me ask it
20 this way. Did you ever see Jon happy?

21 A All the time.

22 Q Did you ever see him upset?

23 A No.

24 Q Did you ever see him frustrated?

1 A Didn't seem to be. He and I got
2 along fine.

3 MR. ELLIS: That's all I have, Your
4 Honor.

5 THE COURT: Questions?

6 MR. EARLS: No, sir.

7 (WITNESS EXCUSED.)

8 MR. ELLIS: Your Honor, to
9 accommodate, we're going to call Valene
10 Foreman.

11 THE COURT: Okay. It's your
12 pleasure.

13 VALENE FOREMAN was called and being
14 first duly sworn, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. ELLIS:

18 Q For the record, please, would you
19 state your name?

20 A Valene Foreman.

21 Q Ms. Foreman, where do you live?

22 A 480 Pleasant Hill Road, Lexington,
23 Tennessee.

24 Q Do you know Jon Hall?

1 A Yes, I do.

2 Q How did you first meet Mr. Hall?

3 A Well, when they moved down there,
4 my kid -- well, my daughter used to go
5 down there all the time. The kids came up
6 there, and he came up there when my father
7 was living. That's how I met him.

8 Q And who is your father, ma'am?

9 A Herman McKinney.

10 Q And 480 Pleasant Hill Drive, I
11 believe that's where you live?

12 A Yes.

13 Q How close is that to Mr. Hall's
14 house?

15 A Well, right down the hill.

16 Q So you were practically neighbors?

17 A Neighbors, uh-huh.

18 Q And did you know his wife, Mrs.
19 Billie Hall?

20 A Yes, I did.

21 Q Did you have a chance to see them
22 together?

23 A Oh, yeah.

24 Q Did you interact with Mr. Hall?

1 And by interact, did you hang out, did you
2 go over and talk or --

3 A Well, he would come over there and
4 talk, you know, to my father.

5 Q And did you see them together?

6 A Well, I see them, you know,
7 passing. Sometimes they, you know, down
8 in the yard.

9 Q How about Mr. Hall? Did you ever
10 see him just by himself?

11 A Well, yeah. Yeah, he come up there
12 when my father was living. He'd come up
13 there and talk, and the kids, he'd have
14 them. They'd come up there.

15 Q Now your father is Herman McKinney.
16 Correct?

17 A Yes.

18 Q Did he -- Is he still living?

19 A No, sir, he's dead.

20 Q When did he pass, ma'am?

21 A I can't exactly remember, but he's
22 been dead quite a while.

23 Q Ms. Foreman, on the night that all
24 these events took place, do you have

1 knowledge about a \$25 -- about \$25 that
2 night?

3 A Yes. Well that evening he came by
4 and gave me -- he asked me was my father
5 there and I told him no, and he gave me --
6 he said, "Will you give this to Herman,"
7 \$25. He said he owed it to him. He said,
8 tell him I'll give him the rest later.
9 That's the only thing I know about \$25.

10 Q Did Mrs. Billie Hall work?

11 A Yeah, she worked for the -- I think
12 the ambulance service. I think she told
13 me that's who she worked for.

14 Q Who would babysit the kids while
15 she was working?

16 A Most of the time he would have
17 them, he'd be out there with them.

18 Q And would he provide for their
19 needs?

20 A Far as I know he did.

21 Q And you never saw him -- Did you
22 ever see him act out of the ordinary or --

23 A No. Far as I know he was always
24 nice.

1 Q Ms. Foreman, did you ever talk to
2 anybody from the police department?

3 A Let's see.

4 Q About the events of that night.

5 A No, I don't think so.

6 Q Did you ever talk with any defense
7 counsel?

8 A Two ladies came up there one Sunday
9 and asked me, you know. That's the only
10 thing.

11 Q When was that? Would it be this
12 lady right here?

13 A Yeah, uh-huh.

14 Q And before she talked to you, did
15 anybody else talk to you about this case?

16 A No.

17 Q Do you know if anybody talked to
18 your father about this case?

19 A Might have did. I can't answer for
20 my father.

21 Q Okay. But to your knowledge, you
22 don't think they did.

23 A I don't think they did.

24 MR. ELLIS: Your Honor, that's all

1 I have. Pass the witness.

2 MR. EARLS: No questions.

3 (WITNESS EXCUSED.)

4 THE COURT: Next witness.

5 MR. ELLIS: Your Honor, if we could
6 approach. This is a copy of the subpoena
7 of Herman McKinney. Just pass this to the
8 court reporter to be marked. Your Honor,
9 this is a subpoena of Mr. Herman McKinney.
10 It shows that he's deceased. We just
11 wanted you to take judicial notice that he
12 was deceased.

13 THE COURT: Do you want to have it
14 marked as Exhibit 4?

15 MR. ELLIS: Yes, Your Honor.

16 (Exhibit 4 was marked
17 and entered.)

18 PAULA FOREMAN was called and being
19 first duly sworn, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ELLIS:

23 Q For the record, Ms. Foreman, would
24 you please state your name for the Court?

1 A Paula Foreman.

2 Q Ms. Foreman, where do you live?

3 A French's Trailer Park, Number 13.

4 Q Where did you live on the night in

5 question when all these events took place?

6 A When all that took place?

7 Q Yes, ma'am.

8 A I was living at French's Trailer

9 Park, Trailer 13.

10 Q Ma'am, did you ever live at 480

11 Pleasant Hill Drive?

12 A Yes.

13 Q When did you live there?

14 A About six or seven years ago.

15 Q Did you stay there a lot while you

16 were at this other place, too?

17 A Yeah, occasionally.

18 Q Who lives there?

19 A Now?

20 Q Yes. Well who lived there then?

21 A My brother and my mother and my

22 granddaddy and my sister.

23 Q So you would go back to visit

24 family?

1 A Uh-huh.

2 Q Spend the night?

3 A Yeah.

4 Q Do you know Mr. Jon Hall?

5 A Yes, I do.

6 Q How do you know Mr. Hall?

7 A I used to babysit off and on.

8 Q Did you ever -- You babysitted his
9 children?

10 A Uh-huh.

11 Q Did you ever have a chance to
12 interact with Mr. Hall?

13 A No.

14 Q You never talked to him?

15 A About?

16 Q Just the weather or anything. Did
17 you ever talk to him?

18 A Yeah.

19 Q Did you ever meet his wife, Billie
20 Hall?

21 A Yeah.

22 Q Did you ever see them together?

23 A Yeah.

24 Q Did you ever talk to them together?

1 A Yes, sometimes.

2 Q Did you ever -- Do you know if
3 Billie worked?

4 A No, but he would work on cars
5 sometimes.

6 Q "He" being Jon Hall?

7 A Uh-huh.

8 Q Do you know if his wife worked?

9 A Yes.

10 Q When she worked, who would take
11 care of the kids?

12 A Him or sometimes me. I would
13 babysit.

14 Q How did Jon treat you?

15 A Good.

16 Q Was he nice to you?

17 A Uh-huh.

18 Q Why would you babysit the kids
19 sometimes?

20 A Why would I?

21 Q Yes, ma'am.

22 A Because I needed a job and I wasn't
23 doing anything else, so ...

24 Q And he'd try to help you out?

1 A Yeah .
2 Q Give you a little extra cash?
3 A Yeah .
4 Q Do you know if Mr. Hall drank?
5 A Sometimes beer.
6 Q Did you ever watch him drink?
7 A Yeah , sometimes .
8 Q Did you ever watch him take care of
9 his kids?
10 A Yeah .
11 Q How would you characterize him?
12 Did he provide the essentials?
13 A Yeah , he was good at taking care of
14 the kids .
15 Q Did the kids interact well with
16 him?
17 A Uh - huh .
18 Q Did they like him?
19 A Yes .
20 Q And he liked his kids?
21 A Uh - huh .
22 MR. ELLIS : Your Honor , I have
23 nothing further .
24 THE COURT : Questions ?

1 MR. EARLS: No questions.

2 (WITNESS EXCUSED.)

3 END OF VOLUME I.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23